

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE
(SADAR), NORTH LAKHIMPUR, LAKHIMPUR**

GR CASE NO: 1778 of 2015

U/S- 341/323/294/34 of IPC

State

-Versus-

1. Sri Nipon Gowala and

2. Smti Bakhuti Gowala

.....Accused Persons.

**PRESENT : Smt. Sorbani Bhattacharjee , AJS
Sub Divisional Judicial Magistrate (Sadar)
Lakhimpur, North Lakhimpur.**

ADVOCATES APPEARED-

FOR THE PROSECUTION : Sri Khirod Kr. Kakoti.

FOR THE ACCUSED : Sri Rana Pegu

EVIDENCE RECORDED ON: 03.04.2019

ARGUMENT HEARD ON : 06.05.2019

JUDGMENT DELIVERED ON: 06.05.2019

JUDGMENT

1. Prosecution story in brief as revealed from the ejahar filed by the informant is that on 06/09/2015 at about 12:30 pm when the informant along with her 2 daughters came out of her

house to visit Harimandir then the accused persons wrongfully restrained them on the road without any rhymes and reasons. The accused persons abused her using obscene words and accused Bakhuti Gowala dragged her holding her hair and assaulted her.

2. The Officer-in-charge, Panigaon police station, on receipt of Ejahar registered Panigaon P.S. Case No. 97/2015, U/S 341/294/323/34 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons U/S 341/294/323/34 of IPC.

3. In due course, the accused persons appeared before the Court and the copies of relevant documents were furnished to them as per section 207 of CrPC. Having found a prima facie case against the accused persons, the particulars of offences U/S 341/323/294/34 of IPC are read over and explained to them to which they pleaded not guilty and claimed to be tried.

4. The prosecution, in support of its case, examined 3 (three) witnesses. As per the submission of learned Assistant Public Prosecutor further evidence of prosecution side is closed. As there is no incriminating evidence against the accused persons hence recording of their statement U/S 313 of the Code of Criminal Procedure is dispensed with. Defence side examined no witnesses. I have heard the arguments advanced by the learned counsels for both sides.

5.POINTS FOR DETERMINATION:-

(i) Whether the accused persons, in furtherance of their common intention, on 06.09.2015 at about 12:30 PM, at village Haripur under the jurisdiction of Panigaon P.S., wrongfully restrained the informant Smti Bimali Hazarika and her two daughters on the road and thereby committed an offence punishable U/S 341/34 of Indian Penal Code ?

(ii) Whether the accused persons, in furtherance of their common intention, on the same day, time and place, voluntarily caused hurt to the informant and thereby committed an offence punishable U/S 323/34 of Indian Penal Code ?

(iii) Whether the accused person on the same day, time and place, in furtherance of their common intention, used obscene words against the informant in or near public place to the annoyance of others and thereby committed an offence punishable U/S 294/34 of Indian Penal Code ?

DISCUSSION, DECISION AND REASONS THEREOF:

6. PW-1, Smti Bimali Hazarika in her evidence stated that she is the informant of this case. She knows the accused persons namely, Baputi Gowala and Nirmal Gowala. About 4 years back one day in the daytime accused persons wrongfully restrained her on road near Harimandir and had altercation with her. Out of anger, she lodged this case against them. Now, they have amicably settled the case. She has no grievance against the accused persons. Defence declined to cross-examine her.

7. PW-2 Smti Binu Gowala in her evidence stated that she knows the informant of this case. She knows the accused persons namely Baputi Gowala and Nirmal Gowala. They are her neighbours. About 4 years back one day in the daytime accused persons wrongfully restrained the informant on road near Harimandir and had altercation with her. She has seen the incident. Now they have amicably settled the case. Defence declined to cross-examine her.

8. PW-3 Sri Baba Hazarika deposed that he knows the informant of this case who is his wife. He knows the accused persons namely Baputi Gowala and Nirmal Gowala. They are his neighbours. About 4 years back one day in the daytime accused persons wrongfully restrained the informant on road near Harimandir and had altercation with her. He has not seen the incident. Now they have amicably settled the case with the accused persons. Defence declined to cross-examine him.

9. In this case prosecution examined only three witnesses. PW 1 is the informant cum victim of this case and PW 2 and 3 are independent witnesses. From the evidence of PW-1 it is found that on the day of incident accused persons wrongfully restrained the informant on the road near Harimandir and had altercation with her. PW-2 and 3 also supported PW-1 on this point. PW 1, 2 and 3 failed to explain how the accused persons restrained the informant on road.

10. Further, PW-1 herself stated that she lodged this case out of anger and now they have settled the case amicably. The other two PWs have also stated that the matter has been amicably settled between the informant and accused persons. In such circumstances, accused persons cannot be hold guilty in this case. Situated thus, I am of the opinion that the ingredients of the offences u/s 341/323/294/34 of IPC have not been proved against the accused persons beyond all reasonable doubt by the prosecution.

ORDER

11. Accordingly, the accused persons namely, Sri Nipon Gowala and Smti Bakhuti Gowala are acquitted of the offences U/S 341/323/294/34 of IPC and they are set at liberty forthwith. The bail bonds of the accused persons and their sureties shall

remain in force for a period of 6 months from today as per amended CrPC.

Given under my hand and seal of this court on this 6th day of May, 2019.

**Smti Sorbani Bhattacharjee, AJS
Sub Divisional Judicial Magistrate (S)
Lakhimpur, North Lakhimpur**

GR 1778 of 2015

APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES :

1. PW-1 Smti Bimali Hazarika
2. PW-2 Smti Binu Gowala
3. PW-3 Sri Baba Hazarika

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

**Smt. Sorbani Bhattacharjee, AJS
Sub Divisional Judicial Magistrate (S)
Lakhimpur, North Lakhimpur**