

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, LAKHIMPUR,
NORTH LAKHIMPUR, ASSAM**

Present: Sri Akhtabul Ala, AJS,
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam

G.R. 2325/2018

Under section 447/294/506/352/34 of the Indian Penal Code

State of Assam

-Vs-

- 1. Md. Abdul Halim**
- 2. Md. Nur Hussain Ali**

.....Accused persons

Date of offence explanation : 13.06.2019
Date of recording evidence of PWs : 08.03.2021
Date of argument : 08.03.2021
Date of judgment : **08.03.2021**

Advocates appeared in the case:-

Mrs. Ajanta Sarmah Baruah, Addl. P.P., for the State

Mr. Khurshed Alam, Advocate, for the accused persons

J U D G M E N T

1. The brief matrix of the prosecution case is that one Musst. Beauty Changmai on 12.09.2018 had lodged an ejahar before the In-charge of Silonibari Police Outpost under North Lakhimpur Police Station alleging inter alia that on 06.09.2018 at about 10:15 PM the accused persons viz. Md. Halim, Musst. Tohura Khatun, Md. Nur Hussain, Musst. Samina and Musst. Momina armed with spear, dao and lathi entered into her compound and started shouting and as such she came out of her house and the accused persons above named assaulted her causing injuries on different parts of his body. The accused persons also assaulted her husband viz. Md. Din Islam causing injury to him and also abused them by hurling filthy and obscene language and also criminally intimidated them. Hence, the case.

2. The Officer-in-charge of North Lakhimpur Police Station, on receipt of the ejahar, registered a case vide N.L.P.S Case No. 1023/2018 under section 147/148/447/325/323/294/506 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 447/294/506/353 of the Indian Penal Code against accused persons Musstt. Beauty Changmai, Md. Din Islam and Md. Abdul Alam to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 447/294/506/353 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused persons entered their appearance before the Court after receiving the summons. Copies were furnished to the accused persons as per provision contained in section 207 of the Code of Criminal Procedure. The particulars of the offence under section 447/294/506/352/34 of the Indian Penal Code were explained to the accused persons to which they pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION :

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused persons, in furtherance of their common intention had committed criminal trespass by entering in the compound of the informant ?

(b) Whether the accused persons, in furtherance of their common intention had hurled verbal abuses with filthy language to the informant and her husband in public to cause annoyance to them?

(c) Whether the accused persons, in furtherance of their common intention had criminally intimidated the informant and her husband ?

(d) Whether the accused persons, in furtherance of their common intention had assaulted or used criminal force to the informant and her husband ?

5. During the trial the prosecution side examined altogether 2(two) witnesses viz. Musstt. Beauty Changmai as PW-1 and Md. Din Islam as PW-2. The prosecution had exhibited the ejahar as Ext-1 and the signature of the informant therein as Ext-1(1).

6. The statements under section 313 of the Code of Criminal Procedure of the accused persons were dispensed with on finding no incriminating materials against them.

7. Both the sides advanced their respective argument in this case.

DISCUSSION, DECISION AND REASONS THEREOF:

8. Now in order to decide the aforesaid points of determination let us go through the evidence of PWs.

9. PW-1 Musstt. Beauty Changmai, the informant cum victim of his case, deposed that there was a verbal altercation between her and the accused persons over some family matters and later out of a misunderstanding she had lodged this case against the accused persons. In her cross-examination, she categorically stated that she has no objection if the accused persons are acquitted as this case arose only out of a misunderstanding.

10. PW-2 Md. Din Islam, the husband of the informant also deposed that on the day of the occurrence over some family matters there was an altercation between his wife and the accused persons and later his wife lodged an ejahar against the accused persons out of a misunderstanding. In his cross-examination, he has also categorically deposed that he has no objection if the accused persons are acquitted as this case arose only out of a misunderstanding.

11. So from the evidence of informant cum victim (PW-1) and her husband (PW-2) it transpires that the only thing that had happened

between both sides was a mere verbal altercation and nothing else. This case in fact arose only out of a misunderstanding.

12. So no such offence as that of the accused persons in furtherance of their common intention committing criminal trespass by entering in the compound of the informant or that of hurling verbal abuses at her and her husband with filthy language in public to cause annoyance to them or that of the accused persons in furtherance of their common intention criminally intimidating the informant and her husband or that of the accused persons in furtherance of their common intention assaulting or using criminal force to the informant and her husband is made out.

13. Hence in the given position no offence is made out against the accused persons and consequently all the aforesaid points of determination are held in negative.

14. The prosecution as such has failed to prove the case against the accused persons under section 447/294/506/352/34 of the Indian Penal Code and as such they are acquitted from the said offences and are set at liberty.

Bail bonds are extended to for the further 6(six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 8th day of March, 2021.

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed & typed by-
Sri Narayan Chetri, Stenographer

Contd. Appendix

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Musstt. Beauty Changmai (PW-1)

Md. Din Islam (PW-2)

PROSECUTION EXHIBIT

Ejhar (Ext-1)

Signature of the informant [Ext-1(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur