

**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. 2326/2018

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

State of Assam

-Vs-

- 1. Musstt. Beauty Changmai**
- 2. Md. Din Islam**
- 3. Md. Abdul Alam @ Samsul Alam**
.....Accused persons

Date of offence explanation : 13.05.2019
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
Mrs. Mitali Doley, Advocate, for the accused persons

J U D G M E N T

1. The brief matrix of the prosecution case is that one Md. Abdul Hanif 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 07.09.2018 at about 11:30 PM the accused person viz. Md. Abdul Alam entered into his compound and was standing in front of the door of his house with ill motives and as such when the father of the informant viz. Md. Abdul Halim raised hue and cry the said accused fled away from there. Thereafter, the said accused again came to his courtyard with a 'dao' in his hand and assaulted his mother Musstt. Tohura Khatun with the blunt side of the 'dao' causing

injury to her. Seeing the incident the sisters of the informant viz. Musstt. Samina Khatun and Musstt. Mamoni Khatun came out from their house and the accused also assaulted them with fist blows and lathi blows. Thereafter, the other accused persons viz. Musstt. Beauty Changmai, Md. Din Islam, Md. Abdul Alam and Musstt. Moksina Begum came to the place of occurrence and created nuisance and abused the informant and his family members by hurling filthy and obscene language. 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. 1024/2018 under section 143/447/325/323/294 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 447/294/352/34 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 447/294/352/34 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 447/294/352/34 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 his family members in public to cause annoyance to them?

(c) Whether the accused persons, in furtherance of their common intention had assaulted or used criminal force to the informant and his mother and sisters ?

5. During the trial the prosecution side examined altogether 4(four) witnesses viz. Md. Abdul Hanif as PW-1, Musstt. Tohura Khatun as PW-2, Musstt. Monina Khatun as PW-3 and Musstt. Samina Khatun as PW-4. 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 Md. Abdul Hanif, the informant of his case, deposed that there was a verbal altercation between the accused persons and his mother and younger sister over some family matters and later out of a misunderstanding he had lodged this case against the accused persons. In his cross-examination, he categorically stated that he has

no objection if the accused persons are acquitted as this case arose only out of a misunderstanding.

10. PW-2 Musstt. Tohura Khatun, the mother of the informant, PW-3 Musstt. Momina Khatun and PW-4 Musstt. Samina Khatun, younger sister of the informant are all victims of this case. But they all have not supported the prosecution case and deposed in the same tune as of the informant that there was a verbal altercation between them and the accused persons over some family matter and later the informant lodged an ejahar against the accused persons out of a misunderstanding. In their cross-examination, they have also categorically deposed that that they have no objection if the accused persons are acquitted as this case arose only out of a misunderstanding.

11. So from the evidence of informant (PW-1) and the victims (PW-2, PW-3 and PW-4) 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 him and his family members with filthy language in public to cause annoyance to them or that of the accused persons in furtherance of their common intention assaulting or using criminal force to the informant and his mother and sisters 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 447/294/352/34 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

Md. Abdul Hanif (PW-1)

Musstt. Tohura Khatun (PW-2)

Md. Momina Khatun (PW-3)

Musstt. Samina Khatun (PW-4)

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