

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
AT NORTH LAKHIMPUR**

G.R CASE NO: 196 OF 2016
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MUSSTT JAMILA KHATOON
 MUSSTT ROHIMA KHATOON
 MD. HEDAYATULLAH

DISTRICT: NORTH LAKHIMPUR
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 196 / 2016

U/S 341/323/506/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MUSSTT JAMILA KHATOON & 2 ORS

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SMTI USHA HAZARIKA

OFFENCE EXPLAINED ON : 12.07.2018, 12.06.2019
EVIDENCE RECORDED ON : 18.08.2018, 05.04.2021

ARGUMENT HEARD ON : 08.04.2021
JUDGMENT DELIVERED ON : 08.04.2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF

1. Prosecution's case in brief as it reveals from the FIR is that on 14/01/2016 at about 09:00 A.M, while informant Musstt. Hanufa Khatoon was going towards Shivghat with her cows to tether them, at that time, accused Hedayatul Islam and Musstt. Jamila Khatoon obstructed the informant by saying that she cannot go through that road with her cows. The informant then said that she will informant the matter to the villagers. At that time, accused

Md. Hedayatul Islam behaved in an obscene manner with the informant by pulling down the chain of his pant and by saying that he will kidnap the daughters of informant. Subsequently, on 15/01/2016 at about 07:0 A.M, while informant's husband was coming to his house with his cows, at that time, the accused persons obstructed him. Thereafter, accused Musstt. Jamila Khatoon slapped informant's husband with a slipper. The accused persons also assaulted informant's daughters. The informant thereafter lodged an F.I.R about the occurrence before the I/C of Silonibari Police Out Post.

2. On receipt of F.I.R, police registered a case being numbered as North Lakhimpur P.S Case No. 102/16. After investigation, I.O of the case submitted charge sheet against accused Musstt. Jamila Khatoon and Musstt. Rohima Khatoon for the offences punishable under section 341/323/506/34 of I.P.C. During trial, said Md. Hedayatul Islam was added as an accused u/s 319 of CrPC. Copies of relevant documents were furnished to the accused persons u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of offences under section 341/323/506/34of I.P.C are read over and explained to the accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined two witnesses whereas the accused persons did not examine any witness in support of their defence. The accused persons were examined u/s 313 CrPC. Their statements are recorded in separate sheets and tagged with the case record. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

POINTS FOR DETERMINATION:

(i) Whether the accused person on 14/01/2016 & 15/01/2016 in the morning hours at Dijoo Chapori village under North Lakhimpur P.S, in furtherance of their common intention, voluntarily obstructed informant Musstt. Hanufa Khatoon and her husband Md. Umar Ali, so as to prevent them from proceeding in any direction in which they had to right to proceed, and thereby committed an offence punishable u/s 341/34 of IPC?

(ii) Whether the accused persons on 15/01/2016 in the morning hours at Dijoo Chapori village under North Lakhimpur P.S, in furtherance of their common intention, voluntarily assaulted informant's husband Md. Umar Ali and her daughters, with the intention to cause hurt, and thereby caused injury to them, and thereby committed an offence punishable u/s 323/34 of IPC?

(iii) Whether the accused person on 14/01/2016 & 15/01/2016 in the morning hours at Dijoo Chapori village under North Lakhimpur P.S, in furtherance of their common intention, threatened the informant with injury to his person, with the intent to cause alarm, and thereby committed an offence punishable u/s 506/34 of IPC?

DISCUSSION OF EVIDENCE, DECISION, AND REASONS THEREOF:

POINT NO.1, 2 & 3:

5. For the sake of convenience, and as because point no.1, 2, 3&4 are inter-connected, hence they are taken up herein together for discussion & decision.

6. As regards the aforesaid points for determination, the gist of evidence deposited by informant Musstt. Hanufa Khatoon as PW1 in her evidence in chief is that, on the day of occurrence, while she was going through the bank of river situated in the side of the house of accused Md. Hedayatulla, at that time the said accused came out and used obscene words against her and said that he will kidnap her daughters. On the next day, while she alongwith her husband were going through the same way, at that time, the said accused used obscene words against them and then assaulted her with a bamboo stick. Thereafter, accused Musstt. Jamila Khatoon came there and hit her/PW1's husband with a slipper on his face.

7. Upon perusal of the above evidence, I am of the opinion that the same attracts the offences punishable under 341/323/506 of I.P.C. Hence, it is necessary to find out that whether the aforesaid evidence can be believed in order to form a conclusive opinion against the accused persons.

8. In order to find out the credibility of the evidence deposited by PW1, at the very outset, perusal of her evidence shows that she/informant and her husband Md. Umar Ali are the victims of the alleged occurrence. Hence, it is obvious that both of them have witnessed the alleged occurrence and they will

corroborate each other's version in every material aspect. Therefore, let me proceed with the discussion to see that whether informant's husband Md. Umar Ali has corroborated the version of informant/PW1.

9. In the above context, perusal of the evidence deposed by informant's husband/ PW2 Md. Umar Ali shows that he has not deposed any incriminating material against the accused persons. The PW2 has simply stated that he and his wife had an altercation with the accused persons at the time of occurrence with respect to tethering of cows. Be it noted here that the PW2 has added that the matter involved has already been settled amicably for which he is not interested to proceed with this case. Perhaps, for that reason the PW2 refrained from supporting the version of PW1/informant.

10. Be that as it may, the version of PW2 does not support the allegation made by PW1/informant at all. Under such, and having regard to the discussion made in previous paragraphs, I find that the allegations made by PW1/informant in her evidence in chief against the accused persons are highly doubtful and cannot be believed.

11. Considering the entire discussion made above, I find that the witnesses examined by prosecution have failed to prove beyond reasonable doubts that the accused persons have committed the offences as alleged.

DECISION: Point no.1, 2&3 are therefore decided in the negative and goes against the prosecution.

ORDER

12. In view of the discussion made above and the decision reached in the foregoing point for determination, it is held that the witnesses examined by prosecution have failed to prove beyond reasonable doubts that accused Musstt. Jamila Khatoon, Musstt. Rohima Khatoon and Md. Hedayatul Islam have committed the offences punishable under section 323/341/506/34 of I.P.C as alleged, and as such, the above named accused persons are acquitted of the charges under section 341/323/506/34 of I.P.C on benefit of doubt and they be set at liberty forthwith.

The bail bond of the accused persons shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 08th day of April, 2021.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

APPENDIX

(A) **PROSECUTION EXHIBITS**

Exhibit.1 – F.I.R

(B) **DEFENCE EXHIBITS**

Nil

(C) **PROSECUTION WITNESSES**

P.W. 1 – Musstt. Hanufa Khatoon.

P.W. 2 – Md. Umar Ali

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur