

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

G.R CASE NO: 2334 OF 2015
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD. JAKIR ALI

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

GR CASE NO: 2334 / 2015

U/S 294/352/336 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. JAKIR ALI

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: MR. J. BORAH

OFFENCE EXPLAINED ON : 26/12/2019
EVIDENCE RECORDED ON : 26/02/2021, 25/03/2021

ARGUMENT HEARD ON : 25/03/2021
JUDGMENT DELIVERED ON : 25/03/2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF

1. Prosecution's case in brief as it reveals from the FIR is that on 06/11/2015 about 09:30 A.M, while informant Musstt. Sahida Begum asked her neighbour Md. Atikul Hussain to fix the fence in their boundary properly, at that time, accused Md. Jakir Ali came there and rebuked the informant by using obscene words and also chased and pushed her husband. On the night of that day, the accused pelted stone over the house of informant. Again on 08/11/2015 at about 06:00 A.M, the accused pelted stones on the house of informant and
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also over the cows and other livestock belonging to informant. At that time, informant's son Md. Forid Ali raised objection against such act of accused but the accused pelted stones on the body of informant's said son. Thereafter, informant lodged an FIR about the occurrence before the Officer-in-charge of North Lakhimpur Police Station.

2. On receipt of F.I.R, the O/C of North Lakhimpur P.S registered a case being numbered as North Lakhimpur P.S Case No. 1201/15. After investigation, I.O of the case submitted charge sheet against accused Md. Jakir Hussain @ Jakir Ali for the offences punishable under section 294/352/336 of I.P.C. Copies of relevant documents were furnished to the accused person u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of offences under section 294/352/336 of I.P.C are read over and explained to the accused person to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined three witnesses whereas the accused did not examine any witness in support of his defence. The examination of the accused person u/s 313 CrPC was dispensed with finding no incriminating materials against him. 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 06/11/2015 at about 09:30 A.M at Japisajia Khutakatia village under North Lakhimpur P.S, rebuked the informant by using obscene words in or near any public place to the annoyance of informant or others, and thereby committed an offence punishable u/s 294 of IPC?

(ii) Whether the accused person on 06/11/2015 & 08/11/2015 at Japisajia Khutakatia village under North Lakhimpur P.S, assaulted or used criminal force upon the informant or her son Md. Forid Ali or her husband Md. Nazir Ali, otherwise than on grave and sudden provocation, and thereby committed an offence punishable u/s 352 of IPC?

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(iii) Whether the accused person on 06/11/2015 at about 09:30 A.M at Japisajia Khutakatia village under North Lakhimpur P.S, rashly or negligently pelted stones on the house of informant and thereby endangered the life or personal safety of informant or others, and thereby committed an offence punishable under section 336 of I.P.C?

DISCUSSION OF EVIDENCE, DECISION, AND REASONS THEREOF:

POINT NO.1, 2 & 3

6. For the sake of convenience, and as because point no.1, 2, 3&4 are interconnected, hence they are taken up herein together for discussion & decision. As regards the aforesaid points for determination, informant/PW1Musstt.Sahida Begum, informant's son/PW2 Md. Forid Ali and informant's husband/PW3 Md. Nazir Ali in their respective evidence in chief have stated that about 4 – 5 years back on a day at about 10:00 A.M, they had an altercation with the accused with respect to boundary of their land. Thereafter, the informant lodged an FIR against the accused in police station. Exhibit-1 is that FIR in which Exhibit-1(1) is the signature informant/PW1. After lodging of the FIR, the aforesaid dispute between both the parties got settled amicably for which they is not interested to proceed with this case. During their cross-examinations, PW-1, PW2 & PW3 have stated that they have no objection if the accused is acquitted.

7. At the time of argument, learned counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused is liable to be acquitted from this case.

8. On going through the evidence deposed by PW-1, PW2 & PW3 as narrated above, it is seen that at the time of occurrence, they allegedly had an altercation with the accused with respect to boundary of their land. There is nothing in the evidence of PW-1, PW2 & PW3 which can show that the accused rebuked the informant or others by using obscene words, or assaulted or used criminal force upon the informant or others, or pelted stones on the house of informant at the time of alleged occurrence. The witnesses examined by prosecution have not specifically stated anything about any such use of obscene words by the accused, or any assault or use of criminal force by the

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accused, or pelting of stones by the accused. As such, there is no iota of evidence to show that the accused has committed the offences as alleged in the F.I.R. The witnesses examined by prosecution have failed to depose any incriminating material against the accused and has failed to prove the case of prosecution as alleged in the FIR.

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

ORDER

5. 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 has failed to prove that accused Md. Jakir Ali @ Jakir Hussain has committed the offences punishable under section 294/352/336 of I.P.C as alleged, and as such, the above named accused person is acquitted of the charges under section 294/352/336 of I.P.C and he be set at liberty forthwith.

The bail bond of the accused person 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 25th day of March, 2021.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

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APPENDIX**(A) PROSECUTION EXHIBITS**

Exhibit.1 – F.I.R

(B) DEFENCE EXHIBITS

Nil

(C) PROSECUTION WITNESSES

P.W. 1 – Musstt. Sahida Begum

P.W. 2 – Md. Forid Ali

P.W. 3 – Md. Nazir Ali

(D) DEFENCE WITNESSES

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

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