

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

G.R CASE NO: 408 OF 2019
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI AMAR SARKAR

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

GR CASE NO: 408 / 2019

U/S 341/323/294 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI AMAR SARKAR

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SRI D. POKHREL

OFFENCE EXPLAINED ON : 27/11/2019
EVIDENCE RECORDED ON : 11/12/2019, 01/03/2021

ARGUMENT HEARD ON : 01/03/2021
JUDGMENT DELIVERED ON : 01/03/2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the FIR is that on 03.02.2021, informant Smt. Kamala Das saw that accused Sri Amar Sarkar is beating his wife Smt. Mintubala Das, who is the sister of informant. At that time, the informant came forward to stop the accused but the accused stabbed the informant on her head with a "Dao" and thereby caused injury. Thereafter, the informant was under treatment from 03.02.2019 till

14.02.2019. The informant then lodged an FIR about the occurrence before the OC of Laluk police station.

2. On receipt of the F.I.R, a case was registered being numbered as Laluk P.S Case No. 63/2019. After investigation, I.O of the case submitted charge sheet against accused Sri Amar Sarkar for the offences punishable u/s 341/323/294 of IPC. Copies of relevant documents were furnished to the accused u/s 207 CrPC. Considering the relevant documents and hearing the parties, particulars of offences punishable u/s 341/323/294 of IPC are read over and explained to the accused to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined two witnesses, whereas the defence did not examined any witness. The accused was examined u/s 313 of CrPC. Defence case is of total denial as it reveals from the statements made by accused and the tenor of cross-examination of prosecution witnesses by defence. 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-

5. **POINTS FOR DETERMINATION:**

(i) Whether the accused on 03.02.2019, at Ohat village, voluntarily obstructed informant Smt. Kamala Das so as to prevent her from proceeding in any direction in which she had a right to proceed, and thereby committed an offence punishable u/s 341 of IPC?

(ii) Whether the accused on 03.02.2019, at Ohat village, voluntarily stabbed the informant on her head with the intention to cause hurt, and thereby caused injury to the informant, and thereby committed an offence punishable u/s 323 of IPC?

(iii) Whether the accused on 03.02.2019, at Ohat village, rebuked the informant by using obscene language in or near any public place to the annoyance of informant and others, and thereby committed an offence punishable u/s 294 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

POINT NO. 1, 2 AND 3:

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

7. As regards the aforesaid points for determination, informant Smt. Kamala Das in her evidence-in-chief has stated that at the time of occurrence, she heard accused Sri Amar Sarkar shouting at his wife Smt. Mintu Das inside the house of her (PW-1's) brother Sri Jagadish Das. Said Smt. Mintu Das is her (PW-1's) sister. Thereafter, she went there and at that time the accused stabbed on her head with a "Dao" as a result of which she fell down. Thereafter, her brother Sri Jagadish Das took her to hospital where she was under treatment for about twelve days.

8. The aforesaid allegations made by PW-1, if presumed to be believable, in my opinion, will attract the ingredients of the offence punishable u/s 323 of IPC. As such, it is necessary to find out that whether the aforesaid version of informant can be relied upon to form a conclusive opinion against the accused.

9. In order to find out the reliability of the version deposited by PW-1, at the very outset, it can be seen that PW-1 has specifically stated that the occurrence took place in the house of her brother Sri Jagadish Das, and her said brother took her to hospital after being stabbed by accused. Now, going by the aforesaid statement of PW1, it can be inferred that Sri Jagadish Das was present in or nearby his house at the time of occurrence, and therefore, he must be aware of what actually happen at the time of occurrence. In other words, had the occurrence took place as alleged by PW-1 then said Sri Jagadish Das will definitely corroborate the allegations made by PW-1 in her evidence. As such, it is essential to find out that whether Sri Jagadish Das has corroborated the allegations of PW-1.

10. In the above context, perusal of evidence deposited by PW-2 Sri Jagadish Das, who is informant's brother, shows that he only heard hue and

cry at the time of occurrence but he has not seen anything and he do not know anything else about the occurrence. The foregoing evidence deposed by PW-1 clearly shows that he is ignorant of any assault as alleged by the informant. Under such circumstances, and having regard to the discussion made in preceding paragraph, it is clear that the version of PW-1 is totally inconsistent with the version of PW-2, who is a vital witness of this case. Such inconsistency, in my opinion, creates serious doubt as regards the credibility of the version deposed by PW-1/informant. Hence, the evidence deposed by PW-1/informant cannot be relied upon.

11. Needless to mention here that neither PW-1 nor the PW-2 has mentioned anything about any obstruction or use of obscene word by the accused against the informant at the time of alleged occurrence. Hence, it is clear that there is no material to attract the ingredients of the offence punishable under section 341/294 of IPC.

12. Considering the entire discussion made above, it is evident that the witnesses examined by prosecution have failed to prove beyond reasonable doubt that the accused has committed the offences as alleged in the FIR and as quoted in the aforesaid points for determination.

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

ORDER

13. In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the witnesses examined by prosecution have failed to prove that accused Sri Amar Sarkar has committed the offences punishable under section 341/323/294 of IPC as alleged, and as such, the said accused is acquitted of the charges under section 341/323/294 of IPC and he be set at liberty forthwith.

The bail bond of the accused 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 01st day of March, 2021.

The case is disposed of on contest.

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

APPENDIX**PROSECUTION EXHIBITS:**

NIL

PROSECUTION WITNESSES:

1. PW-1 – Smt. Kamala Das
2. PW-2 – Sri Jagadish Das

DEFENCE EXHIBITS:

NIL

DEFENCE WITNESSES:

NIL

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur