

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

North Lakhimpur, Lakhimpur

PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS

Judicial Magistrate First Class,

Lakhimpur, North Lakhimpur

G.R. Case No.47/2015

State

Versus

Jayantajit Doley

(Under sections 341/427/294 IPC)

Offence explained on : 04.05.2016
Evidence recorded on : 22.03.2018, 07.05.2018,
27.06.2018, 28.08.2019
Statements recorded on : 20.03.2021
Arguments heard on : 20.03.2021
Judgment delivered on : 01.04.2021
Advocate for the Prosecution : Mr. Jangki Doley
Advocate for the Accused : Mr. Sanjib Doley

J U D G E M E N T

1. Accused stood for trial for commission of offence u/s 341/427/294 IPC.

2. The informant Sri Jagat Gogoi lodged an ejahar stating *inter*

alia that on 04.01.2015 while he along with his office staffs and their family members were returning from Gerukamukh after a picnic party, a red colored bolero vehicle bearing registration no. AS-07-G-2211 overtook and stopped their vehicle bearing registration no. AS-07-C-8866 and tried to attack them. It is further stated that damage was caused to their vehicle in the incident. Hence this case.

3. On receipt of the ejahar, Officer-in-Charge of North Lakhimpur Police Station registered the case as North Lakhimpur P.S. case no.17/2015 u/s 143/341/427 IPC. Thereafter Investigating Officer launched investigation of the case and submitted chargesheet u/s 341/427/294 of the Indian Penal Code against the accused namely Jayantajit Doley.

4. Thereafter, cognizance has been taken and summon have been issued to the accused. On appearance of accused, necessary documents required u/s 207 Cr.P.C have been furnished to them. On perusal of the materials on record substance of accusation u/s 341/427/294 IPC is read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

5. Prosecution in support of its case has examined only six (6) witnesses.

6. Accused is examined under section 313 Cr.P.C., wherein he denied the allegations levelled against him. Accused denied adducing evidence in defence.

7. I have heard the arguments advanced by the learned counsel for the accused and Ld. A.P.P. Perused the materials available in the case record. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

POINTS FOR DETERMINATION:

Point No 1: Whether the accused on 04.01.2015 at about 6:00 p.m., restrained the traveler vehicle on the way while the passengers were returning from a picnic party and thereby committed an offence punishable u/s 341 of IPC?

Point No 2: Whether the accused on the same date, time and place committed mischief by causing wrongful loss and damage to the traveler vehicle and thereby committed an offence punishable u/s 427 of IPC?

Point No 3: Whether the accused on the same date, time and place uttered obscene words and languages in a public place to the annoyance of the passengers in the traveler vehicle and thereby committed an offence punishable u/s 294 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

8. Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case. **P.W-1 Jagat Gogoi** is the informant of this case and he corroborated the allegations made in the ejahar regarding the occurrence of the incident that took place on 04.01.2015. In his cross examination he stated that the accused did not enter into any quarrel with the informant and other passengers except for the driver of the traveler. While he was confronted with his previous statement he did not mention that the accused quarreled with the driver of the traveler and broke the front glass and assaulted the driver. The investigating officer during his cross examination proved the contradiction which shows that this witness made vital contradictions with his previous statement and therefore the evidence appears to be not consistence enough and cannot be believed.

9. P.W-2 Syed Abu Saleh Ahmed is one of the travelers who were returning from the picnic party with the informant. In his

evidence in chief he corroborated about the incident and stated that the accused restrained the traveler vehicle and thereafter entered into an altercation with their driver and pulled the driver and tried to assault him. Though they tried to intervene into the matter the accused gave a blow to the driver and broke the glass of the traveler. P.W-2 stated that slang words were hurled by the accused but he did not mention as to what words were uttered by the accused. Further in his cross examination he was confronted with his previous statement wherein he did not mention that the accused broke the front glass of the traveler vehicle. The evidence of P.W-2 that the accused assaulted the driver by giving blow has not been corroborated by P.W-1. Thus it appears that this witness has made vital contradictions and therefore his evidence cannot be accepted.

10. P.W-3 Md. Isfakur Rahman is one of the travelers who were returning from the picnic party with the informant. In his evidence in chief he corroborated about the incident and stated that the accused restrained the traveler vehicle and broke the front glass of the traveler and assault their driver. In his cross examination he was confronted with his previous statement wherein he did not mention that the accused broke the front glass of the traveler vehicle and tormented torture on the driver. Thus it appears that even P.W-3 made vital contradictions and therefore his evidence cannot be accepted.

11. P.W-4 Umesh Saikia is another co-traveler who was returning from the picnic party with the informant. In his evidence in chief he corroborated about the incident and stated that the accused overtook and restrained the traveler vehicle and broke the front glass of the traveler and assaulted their driver by punching him. In his cross examination he was confronted with his previous statement wherein he did not mention that the accused punched the driver and broke the front glass of the traveler vehicle. Thus it appears that even

P.W-4 made vital contradictions and therefore his evidence cannot be accepted.

12. P.W-5 Bikash Das is another co-traveler who was returning from the picnic party with the informant. In his evidence in chief he corroborated about the incident and stated that the accused overtook and restrained the traveler vehicle. The accused entered into a quarrel with the driver and broke the front glass of the traveler. P.W-5 nowhere mentioned that the accused assaulted the driver of the traveler vehicle. In his cross examination he was confronted with his previous statement wherein he did not mention that the accused broke the front glass of the traveler vehicle and picked up a quarrel with the driver. Thus even P.W-5 made vital contradictions and therefore his evidence cannot be accepted.

13. From the evidence of the witnesses it appears that the incident occurred between the accused and the driver of the traveler vehicle. The driver is the victim of the alleged incident and he is the vital witness of the prosecution case. Prosecution should have brought this star witness for examination to prove the case as he is the right person to describe as to what had happened on the date of occurrence. The defence gave suggestion that the driver of the traveler vehicle was at fault which resulted in the incident. Withholding such vital witness creates doubt in the prosecution case. Further, there is nothing to show that the accused broke the front glass of the traveler vehicle.

14. P.W-6 Jiban Das is the investigating officer of this case. He described the steps taken by him during investigation after the same was endorsed to him. The evidence of the investigation officer can at best support the prosecution story but his evidence alone cannot prove the prosecution case. The investigation officer proved the sketch map as exhibit 2, seizure lists as exhibit 3 and exhibit 4 and the chargesheet as exhibit 5.

Another vital defect in the prosecution case is that the traveler was not sent for MVI examination to show that the front glass of the traveler vehicle was damaged during the incident. Thus, none of the witnesses could lend help to the prosecution story.

15. Considering the evidence in entirety, it appears that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubts. Hence I am constrained to hold that accused deserves to get the benefit of doubt and is accordingly acquitted.

ORDER

15. In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused namely Md. Jayantajit Doley. Accordingly, accused is acquitted of the charge u/s 341/427/294 IPC levelled against him in this instant case.

16. Set the accused at liberty forthwith.

17. The bail bond for the accused is extended for a further period of six (6) months.

18. The case is disposed of on contest accordingly.

Given under my hand and seal on this 1st day of April, 2021 at North Lakhimpur, Lakhimpur.

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Lakhimpur, North Lakhimpur

APPENDIX**A. WITNESSES OF PROSECUTION:**

1. P.W-1 : Sri Jagat Gogoi
2. P.W-2 : Syed Abu Saleh Ahmed
3. P.W-3 : Md. Isfakur Rahman
4. P.W-4 : Umesh Saikia
5. P.W-5 : Bikash Das
6. P.W-6 : Jiban Das

B. EXHIBITS OF PROSECUTION:

1. Exhibit 1 : Ejahar
2. Exhibit 1(1) : Signature of P.W-1 in the ejahar.
3. Exhibit 2 : Sketch Map
4. Exhibit 2(1) : Signature of P.W-6 in the sketch map
5. Exhibit 3 & 4 : Seizure Lists
6. Exhibit 3(1) & 4(1) : Signatures of P.W-6 in the seizure lists
7. Exhibit 5 : Chargesheet
8. Exhibit 5(1) : Signature of P.W-6 in the chargesheet

C. WITNESS OF DEFENCE: NIL**D. EXHIBITS OF DEFENCE: NIL**

(Ms. Sparsita Garg)
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