

**IN THE COURT OF ADDL. SESSIONS JUDGE:: SONITPUR,  
TEZPUR::ASSAM**

**PRESENT:-** N. AKHTAR, AJS  
Addl. Sessions Judge,  
Sonitpur::Tezpur.

**Sessions Case No. 34 of 2018**

U/s 448/376/120 (B)/506/34 ofIPC.

State of Assam

-Vs-

1. Haidar Ali,
2. Ismail Seikh and,
3. Mantaj Ali.

FOR THE PROSECUTION	:-	Mr. P.K. Sharma, Addl. P.P.
FOR THE DEFENCE	:-	Mr. A.K. Paul, Advocate. Mr. B.K. Basumatary, Advocate.
EVIDENCE RECORDED ON	:-	08.05.2019
ARGUMENTS HEARD ON	:-	08.05.2019.
JUDGMENT DELIVERED ON	:-	08.05.2019.

## JUDGMENT

---

1. The case of the prosecution in brief is that on 14.9.2015, while the prosecutrix was alone at home, the accused persons entered her house and accused Mantaj gagged her mouth and committed rape on her. At that time, the remaining two accused was guarding the house of the prosecutrix. The prosecutrix somehow raised alarm and then, the accused persons fled away. Subsequently, when the prosecutrix was willing to file a case against the accused persons, they were threatened with dire consequences.
2. Based on the said FIR, a case was registered and after completion of investigation, chargesheet was laid against the accused persons. On appearance of the accused persons, copies of relevant documents were furnished to him in compliance of the provision of Sec.207 CrPC and the case being one triable exclusively by the learned Court of Sessions, the same was committed to the learned Court of Sessions for trial whereupon the same was again re-transmitted to this court for disposal.
3. Having heard both the sides and considered the materials on record, a formal charges were framed against the accused persons u/s448/376/120 (B)/506/34 of IPC and had been read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. During trial, the prosecution has examined only the prosecutrix. At the end of the trial, the argument advanced by the learned counsel for both the sides were heard.

### **POINT FOR DETERMINATION**

- *Whether the accused persons on the alleged day of occurrence, criminally trespassed into the house of the prosecutrix as a part of criminal conspiracy hatched among*

*them and accused Mantaj Ali committed rape on her and also criminally intimidated the prosecutrix?*

- *Whether the accused persons did so in furtherance of their common intention?*

### **DISCUSSIONS, DECISIONS AND REASON FOR DECISION**

5. I have perused the evidence of PW1 (Prosecutrix). She had deposed in her evidence in clear terms that she is the informant and she lodged an FIR on 18.9.2015 against all the accused persons. She had also stated that on the alleged day of incident, she had some altercation with the accused out of a petty issue and out of anger, she lodged the FIR against the accused persons bringing some allegations which are not true. No incident as she had stated in the FIR had taken place and she had also stated that all the accused persons are related to her. She had further deposed that she wanted to withdraw the case against the accused persons.
6. Be that as it may but the fact remains that there is no evidence on record to show that the accused persons had committed any offence as charged in the case. It further appears from the evidence that there was barely a verbal altercation between the parties and the prosecutrix out of anger, had lodged the FIR. Therefore, apparently, there is no incriminating evidence on record against the accused persons to impose any criminal liability on them.
7. **In the result and for the reasons and discussions made herein above**, I have no hesitation in my mind in holding that the prosecution has failed to prove its case against the accused persons beyond all reasonable doubts. ***They are hence, not found guilty of any offence as charged and as such, acquitted of the same and set at liberty forthwith.***

*Sessions Case No. 34 of 2018*

8. Forward a copy of this judgment to the District Magistrate in compliance of Sec.365 CrPC.

***Given under my hand and seal of this court on the 8<sup>th</sup> day of May/2019.***

**Typed and corrected by me:**

Addl. Sessions Judge,  
Sonitpur::Tezpur.