

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE(M),  
GOHPUR**

**PRESENT: SRI KAUSHIK KUMAR SHARMA**

**S.D.J.M(M), GOHPUR**

**GR: 263/13**

**U/S 341/352/34 of IPC**

**STATE OF ASSAM.....PROSECUTION**

**v.**

**Sri Bikash Sahu and Anr.....ACCUSED**

**Ld. Advocates: For Prosecution.....Smti Bornali Chetia, Ld.APP**

**For Defence.....Sri Amar Bora, Ld. Advocate**

**Evidence Recorded on : 11.11.14, 01.12.14**

**Argument heard on: 27.5.15**

**Judgment delivered on: 27.5.15**

## **J U D G M E N T**

1. The prosecution's case is that the accused persons, namely, Sri Bikash Sahu and Smti Tara Sahu had occupied PWD land, beside the road. And hence, a public way was blocked on 14.3.13. When the informant had objected to it and had asked the accused to

clear the way, the accused persons had wrongfully restrained him and assaulted him. Hence, the case

2. The informant, had lodged a complaint petition in the Court, which was forwarded to police, u/s 156(3) of Cr PC. The police had registered Halem P.S Case No. 12/13 u/s 341/385/506/511/34 of IPC. After investigation, the police had submitted charge sheet u/s 341/352/34 of IPC.
3. On appearance before Court, the particulars of offences u/s 341/352/34 of IPC were explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. The prosecution had examined 3 witnesses. Thereafter, prosecution has closed its evidence. The accused was examined u/s 313 CrPC. The defence side did not adduce any evidence. Heard arguments.

**POINTS FOR DETERMINATION:**

- a) Whether the accused had wrongfully restrained the informant to on or about 14.3.13?
- b) Whether the accused had voluntarily assaulted or used criminal force to the informant on or about 14.3.13?

**DISCUSSION AND DECISION BASED ON REASON:**

5. PW1, Sri Tulashi Gogoi, the informant, in his examination in chief has stated that he recognizes the accused persons. About one year ago, the accused persons, had extended their boundary and occupied 18 feet of PWD land near the road. That is why the road

was blocked. The accused persons had demanded Rs.30000/- from him to remove the blockage from the road. The accused had stated that he would remove the blockage even if Rs.30000/- is given to the police. He stated that on the day of occurrence, he and the gaonbura, Sri Padmeswar Saikia, had gone to the house of accused persons. But the accused persons had hurled abuses at him. Hence, he had lodged the case through the Court. Ext 1 is his complaint petition and Ext 1(1), 1(2), 1(3) and 1(4) are his signatures.

- 6.** In his cross examination, inter alia, he has stated that he did not state before the police that the accused persons had demanded Rs.30000/- from him. The accused persons had spoken to the police about money. He also stated that he did not state before police that the accused persons had hurled abuses at him. He stated that he did not give Rs.30000/- to the accused persons. He denied the suggestion that the accused persons did not demand Rs.30000/- from him and that they did not hurl abuses at him. He denied the suggestion that he had lodged a false case.
- 7.** PW2, Sri Tulashi Sarma, in his examination in chief has stated that one year ago, the informant had lodged a complaint before him that the accused persons had blocked govt way by putting up fencing. Thereafter, he, along with the informant and the gaonbura, Sri Padmeswar Saikia, had gone to the house of the accused persons and had told them to clear the way. The accused Tara Sahu had told them that the road would be cleared if they give Rs.30000/-. Thereafter, they came back from the house of the accused persons.

- 8.** In his cross examination, inter alia, he has stated that the said land is a low lying land, on which cows and people used to cross. The road is not a permanent one. He stated that he does not know, whether there was a bad relation between the two sides. He stated that he does not know if anything else had happened after they had left the place. He stated that he does not know, whether Rs.30000/- has been given or not. He has denied the suggestion the accused Tara Sahu did not demand Rs.30000/- for removing the blockage.
- 9.** PW3, Sri Padmeswar Saikia, in his examination in chief has stated that the informant had complained to him that the accused persons had blocked the way through which he and the public used to pass, by constructing a fence. Thereafter, he along with the informant and VDP, Secretary, Sri Tualshi Sarma, had asked the accused persons as to why the way was blocked. The accused persons had stated that they have been doing cultivation in the land and that they are occupying the land even if the land is a govt. land as the said land is in front of their myadi land. When they told the accused persons to remove the blockage for the purpose of the public, the accused persons had stated that they demanded Rs. 30000/-. Then the informant stated that he would not give the money.
- 10.**In his cross examination, he has stated that the land of the accused is situated behind that of the disputed land. The land of the informant is adjacent to that land. The accused persons are occupying that govt. land. The way was an open way. He stated that the way is not the personal way of the informant. He stated that Tulsi Gogoi did not accompany them. Tulshi Gogoi came at

the time when the conversation with the accused had ended. There was argument and counter argument between the informant and the accused Bikas Sahu. He stated that as per his knowledge, no fighting or quarrel had taken place between the two sides thereafter. He denied the suggestion that the accused had demanded Rs.30000/-.

***Appreciation of evidence:***

11. From the evidence on record, it is clear that there is no evidence to show that the accused persons had restrained the informant in any manner. None of the PWs have stated about any restraint caused by the accused persons. Likewise, none of them had stated that that the accused persons had applied criminal force or that they had assaulted the informant. PW3 has stated that there was argument and counter argument between the accused persons and the informant, but he did not state that the accused had assaulted the informant. On the other hand, PW3 stated that no quarrel took place. Further, even if it is believed that the accused persons had demanded RS.30000/- to open up the way, this per se, does not prove that the accused persons had wrongfully restrained the informant or that he had applied criminal force or assaulted the informant.
12. Thus, the offences u/s 341/352/34 of IPC are not proved, beyond reasonable doubt.
13. Hence, in the light of the above evidence, I am of the considered view that prosecution has failed to prove the guilt of the accused persons, namely, Sri Bikas Sahu and Smti Tara Sahu u/s

341/352/34 of IPC. Hence, the accused are acquitted from all the charges of this case, and are set at liberty forthwith.

14. The judgment is pronounced in the open court on this 27<sup>th</sup> of May, 2015. The judgment is prepared under my hand and seal of this Court
15. The bail bond shall remain operative till 6 months from the date of this order and shall stand cancelled after the expiry of 6 months.
16. The case is, accordingly, disposed of.

(K.K. Sharma)

S.D.J.M, Gohpur.

LIST OF DOCUMENTS EXHIBITED BY THE PROSECUTION:

EXT. 1: FIR

S.D.J.M(M), GOHPUR.