

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE,
SONITPUR, TEZPUR

GR. CASE NO. 189/ 2018

U/S- 447/294/34 IPC

State

V.

Sri. Bubuli Hazarika

&

Sri. Jintu Hazarika

Present before : Kumari Arti, SDJM(S), Sonitpur, Tezpur.
For Prosecution : Sri. R. Kr. Goswami.
For Defence : Smti. U. Mahanta.
Date of Evidence : 04.01.2020.
Date of argument : 13.07.2020
Date of Judgment : 13.07.2020.

JUDGMENT

1. The prosecution case in brief is that on 22.02.18 at about 11 am when informant was constructing house on his land by means of bamboo and tin, accused Bubuli Hazarika and Jintu Hazarika forcefully trespassed into informant's

land and destructed the house of the informant. When informant asked about their misdeed, accused persons abused him by obscene words and also threatened him of dire consequences. Hence, this case.

Compliance of Sec- 207 Cr.P.C.

2. Copies of relevant documents were furnished to the accused in accordance with Sec-207 Cr.P.C.

Offence explanation

3. During trial the particulars of offences u/s- 447/294/34 Indian Penal Code were read over and explained to the accused persons to which accused persons pleaded not guilty and claimed to face trial.

Evidence Adduced

4. Prosecution has examined three witnesses. Examination u/s-313 Criminal Procedure Code is recorded and their plea was in total denial. They declined to adduce evidence in their support.

Points for determination

5. * “ Whether the accused persons in furtherance of their common intention on 22.02.18 at about 11 am had trespassed into the land of the informant, hurled obscene words against informant and thereby committed offences u/s- 447/294/34 of IPC?”

Discussion, Decision and Reasons thereof

6. PW1, Sri. Tilok Nath (informant) has stated that accused persons are his relatives. He stated that about one day about one year ago at 10 am, accused Bubuli Hazarika organized a village 'Bichar' in his house due to the fact that he (informant) had constructed house over his (informant's) land. That during the said meeting Gaobura, Nirmal Nath forcefully took his signature in a blank paper and

then on the date of incident accused persons along with other persons tried to catch hold off him and assault him. That in the meantime he fled away from there and took shelter in the house of Dehiram Nath. Accused persons were unable to assault him and he did not sustain any injury. Later on, he filed FIR at Thelamara police station and police had recorded his statement.

In course of his cross-examination he stated that the FIR was written at the police station as per his instruction. He denied the suggestion that whatever he has stated on the date of his deposition before the court, has not been stated by him in his FIR.

7. PW2, Sri. Babuli Nath, has recognized both the informant and the accused persons as their neighbour. He stated that informant gave the said land to accused Bubuli Hazarika and thereafter informant himself constructed house over the said land and later on upon investigation of Gaobura said house was broken and destructed by the village people. He also said that he was also present at the said village meeting. He clearly stated that accused persons are innocent and did not commit any offence.

8. PW3, Sri. Indreswar Nath has recognized both the informant and the accused persons as their neighbour. He stated that on the date of the incident, he was present elsewhere. He stated that he heard that Gaobura organized a village 'Bichar' in the house of the Bubuli Hazarika as informant had constructed house over the land of Bubuli Hazarika and said land was given to Bubuli Hazarika by the informant. Later on, village people broke the house constructed by the informant as per advice of Gaobura. He too had stated that accused persons are innocent.

9. From the discussion on the basis of aforesaid evidence it reveals that accused persons cannot be held guilty of offence alleged to be committed by them as statement given by witnesses are corroborative in nature and informant failed to give the instance of criminal trespass by the accused persons and also could not depose anything about the alleged obscene abuse by accused persons in his evidence. This being the position, the prosecution case cannot be said to have been proved beyond all reasonable doubt.

10. Arguments advanced by both the parties and the evidence on record indicate that accused persons in no manner are involved in the alleged incident and cannot be held guilty u/s- 447/294/34 of Indian Penal Code.

11. Therefore, it would be highly unsafe to hold the accused persons guilty of commission of offence punishable u/s- 447/294/34 Indian Penal Code.

12. Accordingly, the prosecution in the instant case could not discharge the heavy burden of proving the guilt of the accused persons namely Bubuli Hazarika and Jintu Hazarika for commission of the alleged offences beyond all reasonable doubt. Therefore, the onus has not shifted to the defence in the present case.

13. My discussion above propels me to decide both the points for determination in negative. Accordingly the accused persons namely Bubuli Hazarika and Jintu Hazarika are held not guilty for commission of the offences punishable u/s- 447/294/34 Indian Penal Code.

ORDER

14. Accused, Bubuli Hazarika and Jintu Hazarika are acquitted of the offence punishable u/s- 447/294/34 Indian Penal Code and he is set at liberty.

15. The bail bond shall be in force for six months from the date of the judgment delivered.
16. Given under my hand and seal of this court on 13th day of July, 2020.

KUMARI ARTI
SDJM(S), SONITPUR, TEZPUR

APPENDIX

Prosecution has examined three witnesses:-

PW1, Sri. Tilok Nath

PW2, Sri. Babuli Nath

PW3, Sri. Indreswar Nath

Defence side has not examined any witness.

Documents exhibited by the prosecution :-

Ext. 1- Ejahar.

Ext.2- Charge Sheet.

Ext.3-Sketch Map.

Documents exhibited by the defence -: Nil

KUMARI ARTI
SDJM(S), SONITPUR, TEZPUR