

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE

SONITPUR, TEZPUR, ASSAM

GR CASE NO:- 2843/17

U/S 323/354/506/34 IPC

State of Assam

Vs

1. Md Abdul Kalam
2. Md Jamaluddin
3. Mustt Habija Khatoon

Accused persons

Present : Sri. Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate

For Prosecution : Sri. P. Baruah, Learned Addl. Public Prosecutor.

For the accused : Sri H.P.Sedai, Ld Defence Counsel

Evidence recorded on : 21-01-20,18-02-20

Arguments heard on : 19-02-21

Judgement delivered on : 19-02-21

J U D G M E N T

1. The prosecution story emanates from the FIR lodged by Mustt Rafija Khatoon stating inter alia that on 8-7-17 at about 11 pm, accused persons threw garbage in her turmeric cultivated land and when her husband Md Addul Kadir protested, they assaulted him with hand and lathi. When she tried to escape her husband, accused persons also dragged her holding her hair and assaulted her. Hence this case.

2. After completion of investigation the police filed charge-sheet against the accused persons u/s- 323/354/506/34 IPC. At the relevant point of time, on receipt of summons the accused persons appeared before this Court and they were furnished copies as mandated u/s 207 Cr.P.C. Having found a case against the accused persons u/s- 323/354/506/34 IPC, the charge under said sections of law were framed, read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

3. The prosecution examined only two (two) witnesses and defence examined none. Considering the evidence of PWs, injury report of the informant as well as submission made by the prosecution and defence side, further prosecution evidence was dispensed with. The accused persons were examined u/s-313 Cr.P.C. wherein they stated that the prosecution case is false.

Points for determination

- i. Whether the accused persons on 8-7-17 at about 11 pm in furtherance of their common intention voluntarily caused hurt to the informant and her husband and thereby committed an offence punishable under Section 323/34 of IPC?
- ii. Whether the accused persons on the same day and time in furtherance of their common intention committed criminal intimidation by threatening the informant and thereby committed an offence punishable under Section 506/34 of IPC?
- iii. Whether the accused persons on the same day and time in furtherance of their common intention assaulted and used criminal force to the informant with intent to outrage her modesty and thereby committed an offence punishable under Section 354/34 of IPC?

Discussion of evidence

4. PW1 Mustt Rafija Khatoon is the informant of this case and she deposed that about two years ago, at 11 am, the occurrence took place. At the time of the occurrence, accused persons threw garbage at her turmeric cultivated land and when her husband protested, they assaulted him. To resolve the dispute, a public meeting was convened and in that meeting, accused persons demanded money from her. As she could not fulfil their demand, accused persons lodged a false case against her and for this reason, she was compelled to lodge this case against them.

In cross-examination, she stated that she has lodged this case as the accused persons also lodged a case against her and her husband.

5. PW2 Md Abdul Kadir is the husband of the informant and he in his evidence has stated that on the day of the occurrence, accused persons uprooted bamboo fencing from his land claiming the same to be theirs. The accused persons dragged him on the ground and physically assaulted him with a handle of a dao.

In cross-examination he stated that as the accused persons lodged a case against them, so the informant lodged this case.

This in nutshell is the evidence on record.

DECISION AND REASONS THEREOF

6. I have heard the prosecution and defence side.
7. Let me now analyse how far prosecution side has been able to prove its case beyond all reasonable doubt against the accused.
8. Prosecution side examined only two witnesses in support of this case i.e. PW1, who is the informant and PW2, who is the husband of the informant. In course of their evidence, PW1 and PW2 stated inter alia that as the accused persons had lodged a case against them, so they lodged this case against the accused persons. The prosecution side could not examine any independent witness to prove its case against the accused persons.
9. In view of the aforesaid flaws in the prosecution case, it is hereby held that prosecution has failed to prove its case beyond all reasonable doubt. As such this court holds that the accused persons namely Md Abdul Kalam, Md Jamaluddin and Mustt Hafija Khatoon are not found guilty of the offence U/S 323/354/506/34 IPC and they are set at liberty forthwith. The bail bond furnished by the accused persons is hereby extended for six months from today (19-02-21).
10. Seized articles if any, be delivered to his lawful owner after proper verification and following the process of law.
11. Judgement is delivered and pronounced in open court.
12. A free copy of judgment be forthwith given to the accused.
13. Given under my hand and seal of this court on this 19th day of February, 2021.

Sri Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur

APPENDIX

Prosecution witnesses:-

PW1 Mustt Rafija Khaton

PW2 Md Abdul Kadir

Defence witness:

Nil

Documents exhibited by the prosecution :-

Ext. 1 Ejahar

Documents exhibited by the defence -: Nil

Sri Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur