

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE:

BISWANATH CHARIALI:: SONITPUR

Present: Mrs. Priyanka Hazarika Nair

Sub Divisional Judicial Magistrate (M)

Biswanath Chariali, Sonitpur.

G.R Case No. 600/2016

u/s 341/294/506 I.P.C

State

Vs.

Sri Putul Das..... Accused person.

Advocate for the Prosecution: Sri Badan Chandra Sharma, Ld. Addl. P.P

Advocate for the Defence: Sri Pranjal Pratim Baruah.

Evidence Recorded on: 05.05.2018; 22.01.2019; 05.04.2019.

Argument Heard on: 14.05.2019.

Accused examined u/s 313 Cr.P.C on: 14.05.2019.

Judgment Delivered on: 14.05.2019.

J U D G M E N T

PROSECUTION FACTS IN BRIEF:

1. The prosecution story in brief is that the informant, Smti. Kalpana Tamang had lodged an ejahar on 26.10.2016 stating inter alia that while she was returning home after dropping her children at school, the accused person allegedly stopped her on the road and abused her with filthy words and further threatened her with dire consequences. Hence this case.
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2. On receipt of the ejahar, the Officer in Charge of the Behali P.S registered a case vide Behali P.S Case no. 122/2016 u/s 341/294/506 of the Indian Penal Code. The investigation culminated into the filing of the charge sheet u/s 341/294/506 IPC against the accused person ,Sri Putul Das.
3. The Court has complied with the requirement of furnishing copies of relevant documents to the accused person, as enshrined in Section 207 Cr.P.C. Thereafter, on a careful consideration of the case record and charge sheet and after hearing Learned Advocates of both the sides, it appeared that there were prima facie materials against the accused person u/s 341/ 294/ 506 IPC. The particulars of the offences were, thereafter, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION:

4. Whether the accused person wrongfully restrained the informant while she was returning back home on her way, and thereby committed an offence punishable u/s 341 IPC?
5. Whether the accused person abused the informant with filthy words in a public place and thereby committed an offence u/s 294 I.P.C?

6. Whether the accused person criminally intimidated the informant and thereby committed offence punishable u/s 506 of the I.P.C?

THE TRIAL:

7. The prosecution side examined three witnesses and the defence exercised their right to cross examine the said prosecution witness. The prosecution exhibited one document in support of their case.
8. On closure of the prosecution evidence, the statement of the accused u/s 313 Cr.P.C was recorded. The defence side refused to adduce any evidence on their behalf. Thereafter, the arguments forwarded by the Learned Advocates of both the sides were heard and the under mentioned findings were arrived at.

DISCUSSION, DECISION AND REASONS THEREOF:

9. PW-1, Smti Kalpana Tamang, had deposed that on 26.10.2016 the accused person allegedly restrained her on her way while she was returning on her bicycle after dropping her children in their school. She further deposed that the accused person abused her with filthy words like '*Rendi*' and '*Bonori*' in front of his house. She further deposed that the accused brought a dao to kill her and then she fled away with her bicycle. Ext. 1 was identified by her as the ejahar lodged by her and Ext 1(1) was identified as her signature. In her cross examination, P.W-1 had deposed that near the place of occurrence, there are houses of Bhadra Das, Ghotok Das and other people. She further deposed that there was some quarrel between the accused and herself even before the instant case. She further deposed that she used to sell liquor and presently also she sells liquor. She further deposed that there is a distance about 2 k.m between her house and the house of the accused person. She deposed that no neighbour was present at the place of occurrence during the incident.
10. P.W-2 deposed that there was some quarrel between the accused and the informant but that she had merely heard the altercation as she was inside her

house. In her cross examination, she deposed that she does not know what incident had taken place.

11. P.W-3 deposed that he does not know anything about the incident.

12. **DECISION:** It is apparent from the testimony of the P.W-1 and her statement before the I.O u/s 161 Cr.P.C that there are material contradictions in her versions. In her statement u/s 161 Cr.P.C, she had not stated that the accused had abused her with obscene words like 'Rendi' and 'Bonori' and that the accused person brought a dao and threatened to kill her. Such material omission renders her testimony not completely reliable and I would seek further corroboration from the testimonies of the other P.Ws. However, the other two P.Ws did not state anything which would corroborate the version of the informant. Therefore, I have arrived at the conclusion that there are no oral or documentary evidence against the accused person sufficient enough to establish the guilt of the charge levelled against them u/s 341/294/506 IPC. The prosecution has, thus, miserably failed to bring home the charge against the accused person.

ORDER

13. Keeping in mind the above discussion and decision, I hereby acquit the accused persons, Sri Putul Das, from the charge u/s 341/294/506 of the Indian Penal Code.

14. Adhering to Section 437-A of the Cr.P.C, the bail bond of the accused person shall remain in force for six months.

15. The case is, accordingly, disposed of on contest.

16. The judgment is delivered and pronounced in open Court, today, the 14th day of May, 2019 under my hand and seal of this Court.

Smti. Priyanka Hazarika Nair
Sub Divisional Judicial Magistrate(M)
Biswanath Chariali, Sonitpur.

G.R Case No. 600/16

Dated: 14.05.2019.

APPENDIX

(A) PROSECUTION WITNESSES:

P.W-1: Smti. Kalpana Tamang

P.W-2: Smti. Pronita Borah

P.W-3: Sri Moneswar Kotoky

(B) PROSECUTION EXHIBITS:

Ext. 1- Ejahar

Ext.1 (1) Signature of PW-1

(C) DEFENCE WITNESSES: Nil

(D) DEFENCE EXHIBITS: Nil

(Mrs. Priyanka Hazarika Nair)
Sub Divisional Judicial Magistrate(M)
Biswanath Chariali, Sonitpur.