

G.R No-3594 of 2016
(State of Assam Vs Smt. Lalita Rabha)

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR AT TEZPUR

G. R. Case No. 3594 of 2016

(Under section 447/294/506 of I.P.C)

Present:-**Sri N. J. Haque, AJS,**
Chief Judicial Magistrate,
Sonitpur, Tezpur

State of Assam

-Vs-

Smt. Lalita Rabha

W/O:- Sri Gendela Rabha (Gahin)

R/O:-Udalbari

P/S:-Dhekiajuli

Dist:-Sonitpur, AssamAccused Person

Advocate appeared:

Mr. Niranjana Saikia, Asst. P.P..... For the State

Mr. A. K. Paul, Ld. Advocate..... For the accused person

Evidence recorded on	:- 08.05.2019, 02.09.2019, 03.01.2020 & 04.03.2020
Date of Statement of defence	:- 09.07.2020
Argument heard on	:- 09.07.2020
Judgment delivered on	:- 09.07.2020

J U D G M E N T

History of Prosecution's Case

1. Prosecution case appears to be in a nutshell is that on 20.10.2016, one Smt. Makoni Rabha lodged an ejarah before the O/C of Dhekiajuli P.S through I/C of Raikashmari O.P alleging inter alia that on 18.10.2016 at about 9 AM, the FIR named accused person illegally entered into her house and started assaulting her along with her son Jayanta Rabha and her daughter Jayanti Rabha. It is also alleged that the accused tore the clothes of her daughter Jayanti Rabha and also threatened them of dire consequences of their lives.

"INVESTIGATION"

2. On receipt of the ejarah, Dhekiajuli P.S Case No.774of 2016, u/s-441/325/506 of I.P.C was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s 441/294/506 of I.P.C against the above named accused person.

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CHARGE & TRIAL

3. In pursuant to the court's process, the accused person appeared before the court and she was allowed to go on bail. Copies u/s- 207 of CrPC was furnished to the above-named accused person. After hearing both side, particulars of offences u/s-447/294/506 of I.P.C was read over and explained to the accused person by my Ld. Predecessor in office, to which she pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused person examined only 05 (Five) numbers of witnesses including the informant and the investigating officer. Considering the testimonies of witnesses, prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Accused is examined u/s 313 CrPC and her pleas of denial are recorded in separate sheet and the same kept with the case record. Accused declined to adduce evidence on his defence.

ARGUMENT

5. I have heard arguments of both sides, gone through the case record in the backdrop of evidences presented before this court by the prosecution side.

6. **The points for determination in this case are:-**

- (i.) Whether on 18.10.2016, at 09 AM, at a place called Chemorajuli under Dhekiajuli P.S accused person named Lalita Rabha illegally entered into the house of the informant with intend to commit an offence and thereby committed an offence punishable u/s 447 of IPC?
- (ii.) Whether on the same date, time and place, accused person, scolded the informant and her family members, using filthy languages and thereby committed an offence punishable u/s 294 IPC?
- (iii.) Whether on the same date, time and place, accused person, criminally intimidated the informant and her family members by way of showing fear of taking away their lives and

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thereby committed an offence punishable u/s- 506
IPC?

EVIDENCES OF PROSECUTION SIDE

7. In this case prosecution examined as many as five numbers of witnesses. For proper appreciation of evidences on record, let us reproduce the testimonies of all witnesses. PW-1 is the informant of this case and she deposed that she lodged the ejahar against the accused Lalita Rabha and the incident took place around three years back at about 9 AM and on the day of incident, the accused illegally entered into her house and started assaulting her son Jayanta Rabha and her daughter Jayanti Rabha and also tore the clothes of her daughter. She also deposed that at the time of incident, she was at her house and she saw the alleged incident. Thereafter, she lodged the ejahar wherein she put her thumb impression. She also deposed that her daughter sustained injury on her person.
8. PW-1 in her cross examination deposed that her elder son Ajay Rabha got married with the daughter of accused Mamoni Boro. She also deposed that she had a grandson from the side of her son Ajay Rabha. She further deposed that her son Ajay went to Kerala for work keeping his wife and his son at home. He returned his house from Kerala after two years back. She also deposed that her son got married with another woman on getting disobedience from the side of her daughter-in-law. She also deposed that her son Ajay got married with another woman prior lodging of this case. Her second daughter-in-law used to work at Mumbai and her son Ajay got married with her at Mumbai.
9. PW-2, Sri Jayanti Rabha deposed that the informant is her mother and the accused is the mother-in-law of her brother. She also deposed that the incident took place on 15.10.2016 at about 9 AM and at that time she was at her home. She also deposed that the accused went to their house to bring back the minor daughter of her brother and when they did not allow her to take back the minor daughter there was an altercation took place between them. She also deposed that when the little girl was pushing she was present there. Thereafter, her mother lodged the ejahar in connection with

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this case. PW-2 in her cross examination deposed that her brother was not present at home when the incident took place and her brother was at Mumbai along with her two wives at the time of incident. She also deposed that her brother got married with another woman. Now, the first wife of her brother got married with another person.

10. PW-3, Sri Ramesh Kurmi deposed that he knows the informant as well as the accused of this case. He also deposed that he does not know anything about the alleged incident. Later, in the evening after coming from his work his wife informed him that a fight took place between both the parties. PW-4, Sri Noni Rabha deposed that he has no personal knowledge about the alleged incident.
11. PW-5, SI Gokul Sonowal, the investigating officer of this case deposed that on 20.06.2016 he was posted as attached officer at Raikashmari OP under Dhekiajuli PS and on that day, as ejarah was lodged at their OP by one Mamoni Rabha and accordingly, the same was sent to Dhekiajuli PS for registration. Thereafter, Dhekiajuli PS Case No. 774/16, u/s-441/325/506 of IPC was registered and he was entrusted to investigate the case. He deposed that he recorded the statement of the informant and proceeded to the place of occurrence, drew a rough sketch map and also recorded the statement of witnesses. He also deposed that three of the injured were sent for medical examination and in course of the investigation, he collected the medical reports. Accused Lalita Rabha appeared at the police station on 24.10.2016 and thereafter, he examined her. Finding sufficient involvement in the case, he arrested the accused and later released on bail. On completion of investigation, he submitted the charge sheet against the accused u/s 441/506/294 of IPC. Ext-1 is the sketch map and Ext-1(1) is his signature. Ext- 2, 3 and 4 are the medical reports collected by him. Ext-5 is the charge sheet wherein Ext-5(1) is his signature.
12. PW-5 in his cross examination deposed that, he learnt that daughter of accused Lalita Rabha was given in marriage to informant's son Ajay Rabha.

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He deposed that in Ext-2, 3 and 4 there is no mention of injuries being sustained by the three victims.

APPRECIATION OF EVIDENCES

13. In this case particulars of offences punishable u/s-447/506/294 of IPC were explained to the accused person on the basis of the charge sheet submitted against her by the investigating officer. In the foregoing discussions, it already disclosed that the Criminal law sets in motion against the accused person on the basis of the ejahar lodged by the informant Makoni Rabha. In the light of accusations levelled against the accused person in this case the prosecution side has got the burden of prove that on 18.10.2016 at about 9 AM, the FIR named accused person illegally entered into her house and started assaulting her along with her son Jayanta Rabha and her daughter Jayanti Rabha. It is also alleged that the accused also tore the clothes of her daughter Jayanti Rabha and also threatened them of dire consequences of their lives.
14. For the sake of proper appreciation of indications accessible before this court, let us deliberate all the facts for fortitude composed in the background of the evidences on record.
15. We have deliberated in the preceding conversation that the prosecution side examined as many as five numbers of the witnesses including the informant and the investigating officer. The case record further makes known that one of the victims Jayanta Rabha could not examined due to his absence. More also from the medical report found on record no injury found from his body. This court even made several attempts to examine said witness but the witness not appeared before the court.
16. I have carefully travelled through the evidence on the record and it finds that PW-1 is the informant, who testified that accused Lalita Rabha illegally entered into her house and started assaulting her son Jayanta Rabha and her daughter Jayanti Rabha and also tore the clothes of her daughter. She lodged the ejahar after two days of incident. From her cross examination, she testified that her elder son Ajay Rabha got married with the daughter of

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accused Mamoni Boro and she had a grandson from the side of her son Ajay Rabha. She further deposed that her son Ajay went to Kerela for work keeping his wife and his son at home. She also deposed that her son got married with another woman getting disobedience from the side of her daughter-in-law.

17. From the evidence of PW-1 it disclosed that on the date of alleged incident accused went to her house and started beating her and her son named Jayanta Rabha and daughter Jayanti Rabha. But her daughter Jayanti Rabha being one of the victim in this case simply deposed that on 15.10.2016 at about 9 AM the accused went to their house to bring back the minor daughter of her brother and when they did not allow her to take back the minor daughter, there was an altercation took place between the accused and the informant. As such, it becomes crystal clear that the testimony of PW-2 contradicts the entire contentions of the ejahar as well as the version of the informant (PW-1). The evidence of PW-2 cannot be overlooked as she is a victim of this case and her evidence makes the testimony of the informant contradictory in nature. Other independent witnesses i.e. PW-3 & PW-4 not deposed anything against the accused person.
18. PW-5 is the Investigating Officer of this case and he after conclusion of the investigation submitted charge-sheet against the accused person vide Ext. 5 and Ext. 5(1) is his signature. Now, coming to the cross-examination part of PW-5, this court finds that PW-1 and PW-2 in their statements before the I.O not deposed some relevant facts which they have deposed before the court. PW-5 simply deposed that he learnt that daughter of accused Lalita Rabha was given in marriage to the informant's son Ajoy Rabha. He also deposed that In Ext-2, 3 and 4 there is no mention of injuries being sustained by three victims. The informant of this case in her evidence claimed that alleged incident took place on 18.10.2016 but the ejahar was lodged on 20.20.2013. The reason for delay was not mentioned in the ejahar.
19. In this case the evidences presented by PW-1 & PW-2 who are admittedly appears to be the prime victims of this case and they have contradicted each

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other versions. As per PW-2 only quarrel took place between them at the time of incident. PW-1 in her cross-examination affirmed that there was matrimonial dispute between her son and daughter of accused. PW-2 stated that quarrel took place when accused went to brought her grand child from the house of informant. If so, then it appears that entire contentions of informant and version of PW-1 appears to be doubtful and untrustworthy in nature.

20. To sum up the evidences on record, it disclosed that the testimonies of all five witnesses are appears to be contradictory with each other and that makes their evidences doubtful and untrustworthy in nature. This court not finds any single witness to be truthful rather their testimonies found to be full with lot of shortcoming. Hence, this court is unable to put its reliance upon the testimonies of all four witnesses.
21. Hence, in presence of contradictions revealed from the evidences of prosecution side coupled with two days of un-explained delay in lodging the Ejahar makes the entire case of prosecution weaker and doubtful.
22. Therefore, in the light of aforesaid discussion this court is constrained to opine that the prosecution side failed to prove the guilty of the accused person beyond any shadow of doubt. Hence, the accused person is acquitted from the charge's u/s 447/506/294 of IPC and sets at liberty. Surety is extended for six months in view of section 437A of Cr PC.
23. Judgment is pronounced in the open court, which is given under my hand and seal of this court on 09th day of July, 2020.

(Sri N. J. Hoque)
Chief Judicial Magistrate,
Sonitpur: Tezpur

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A-N-N-E-X-U-R-E

1. Witnesses for Prosecution:-

PW 1: Smt. Makoni Rabha, the informant
PW 2: Jayanti Rabha, the victim
PW 3: Sri Ramesh Kurmi
PW 4: Sri Noni Rabha
PW 5: SI Gokul Sonowal, the I.O.

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 : Sketch Map
Ext-2, 3 & 4 : Medical Reports
Ext-5 : Charge Sheet

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur