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G.R No-3779 of 2016
(State of Assam Vs Sri Rajen Munda)

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR

G. R. Case No. 3779 of 2016

Under section 323/506 of I.P.C

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

State of Assam

-Vs-

Sri Rajen Munda

S/O:- Late Mangla Munda

R/O:- Monobag Tea Estate, Hospital Line

P/S:- Dhekiajuli

Dist:-Sonitpur, AssamAccused Person

Advocate appeared:

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

Mrs. Moromi Das, Ld. Advocate..... For the accused person

Evidence recorded on	:- 09.04.2019, 06.06.2019, 04.10.2019 & 11.02.2020
Date of Statement of defence	:- 02.11.2020
Argument heard on	:- 02.11.2020
Judgment delivered on	:- 05.11.2020

J U D G M E N T

History of Prosecution's Case

1. Prosecution case appears to be in a nutshell is that one Sri Anjan Pradhan @ Anju lodged an ejahar before the O/C, of Dhekiajuli P.S alleging inter alia that on 07.11.2016 at about 4 PM, when he was changing the electric wire of his house, the accused named Rajen Munda obstructed him and started quarrelling with him. It is also stated that the above-named accused person also abused him with obscene words and assaulted him with lathi and fist blows for which he sustained injuries on person. It is also alleged by the informant that the accused threatened him of dire consequences.

"INVESTIGATION"

2. On receipt of the ejahar, Dhekiajuli P.S Case No. 832 of 2016, u/s 294/326/506 of I.P.C was registered and investigation into. On completion of the

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investigation, the I.O. of this case submitted charge sheet u/s- 294/323/506 of I.P.C against the accused person.

CHARGE & TRIAL

3. In pursuant to the court's process, the accused person appeared before the court and he was allowed to go on bail. Copies u/s 207 of Cr.P.C was furnished to the above-named accused person. After hearing both side, particulars of offences u/s- 323/506 of I.P.C was read over and explained to the accused person by my Ld. Predecessor in office, to which he pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused person examined as many as six numbers of witnesses including the informant, medical officer and 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 Cr.P.C and his pleas of denial are recorded in separate sheet and the same kept with the case record. Accused declined to adduce evidence on their 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 prosecution side.
6. **The points for determination in this case :-**

- i) **Whether on 07.11.2016 at about 4 PM, at a place called Monobag T.E. under Dhekiajuli P.S, the accused person, voluntarily caused simple hurt by way of assaulting with stick & fist blows to the informant and thereby committed an offence punishable u/s- 323 of IPC?**
- ii) **Whether on the same date, time and place accused threatened the informant named Anjan @ Anju Pradhan with dear consequences of his life and thereby committed an offence punishable u/s 506 IPC?**

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EVIDENCES OF PROSECUTION SIDE

7. In this case prosecution side to prove the accusation examined 06 (Six) numbers of witnesses including the informant. For the sake of proper appreciation of evidences on record let us reproduce the evidences on record. PW-1, Anju @ Anjan Pradhan being the informant deposed that he knows the accused person of this case. He also deposed that incident took place in the year 2016 at about 4 PM and at the relevant time, while he was bringing the electric wire to his house, accused started scolding him with obscene language and assaulted him with lathi on his head and due to that he sustained head injuries. He identified the Ejahar lodged by her as Ext-1 and Ext-1(1) is his signature.
8. PW-1 in his cross examination testified that his house is just adjacent to the house of accused. He deposed that the electric wire passes through the campus of the accused. He denied the fact that while the accused obstructed him not to bring the electric wire through his house, he started assaulting the accused. He further denied that the accused did not assault him with lathi.
9. PW-2, Sunita Munda deposed that she knows the informant as well as the accused person of this case. She further deposed that the incident took place on 07.11.2016 at about 4 PM and at the relevant time she was at home. She further deposed that on the date of alleged incident, she heard commotion from the house of accused Rajen Munda and when she went there she saw accused was in an injured condition. On being asked, the accused told her that Anjan had assaulted him. PW-2 in her cross examination deposed that she had not given any statement before the I/O and she had not stated before the court what was being attributed to her by the Ld. Public Prosecutor. She deposed that she had not seen the incident of assault done by the informant and accused. She further deposed that the accused person also lodged a case against the informant in connection with the same incident. She also deposed that she had not seen the informant at the place of occurrence.
10. PW-3, Smt. Bina Tanti deposed that she has not seen the alleged incident. She deposed that while she was returning home she heard that there was an altercation between both the parties.

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11. PW-4, Manju Tanti deposed that the informant is her father and the accused is their neighbour. She deposed that the incident took place in the year 2016 during afternoon time. She further deposed that she had not seen the alleged incident. She also deposed that on the date of incident, while she was returning home from the hospital, she came to know that the accused had assaulted her father regarding some electric line. Thereafter, her father sustained injuries on his neck and his hand.
12. PW-5, Dr. Hemanta Saikia, who is the medical officer of this case, deposed that on 08.11.2016 he was posted at Dhekiajuli CHC as medical and Health Officer and on that day, he examined one Anju Pradhan. The patient had a history of physical assault. On examination he found pain over his neck region. He opined that the injury was simple caused by blunt object. He identified his report as Ext-2 wherein Ext-2(1) is his signature. PW-5 in his cross examination deposed that while examining the victim, he did not find any external injury. The victim only complained of pain on his neck.
13. PW-6, ASI Pradip Kumar Nath, who is the Investigating Officer of this case, deposed that on 08.11.2016 he was posted as ASI at Dhekiajuli PS. On the said day an ejahar was received from one Anjan Pradhan but the same was registered on 09.11.2016 vide Dhekiajuli PS Case No. 832/2016, u/s 294/506/323 of IPC and he was entrusted to investigate the case. He further deposed that he examined the informant and recorded his statement. Thereafter, he went to the place of occurrence, prepared rough sketch map and recorded the statement of the witnesses. He also deposed that on the accused was not found as he was evading arrest by the police. On 29.11.2016 the accused surrendered at the police station and after questioning him, he found his involvement in the case and accordingly, he arrested the accused and later released him on bail as the injury report of the victim which he collected disclosed only simple injury. After completion of investigation, he submitted charge sheet against the accused u/s 294/323/506 of IPC. He identified the sketch map as Ext-3 and Ext-3(1) is his signature. Ext-4 is the charge sheet and Ext-4(1) is his signature.

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14. PW-6 in his cross examination testified that the date of incident was 07.11.2016 and the ejahar was received on 08.11.2016. He further deposed that the case was registered on 09.11.2016. He further deposed that he has not examined Asena Tanti, though he has shown her house in the sketch map marked as Ext-3.

DISCUSSION, DECISION AND REASONS FOR SUCH DECISION

15. In this case, the prosecution side has got the burden of prove to establish that on 07.11.2016 at about 4 PM, when the informant Sri Anju @ Anjan Pradhan was changing the electric wire of his house, accused abused him with obscene words threatening him of dire consequences and further physically assaulted him by giving fists blows and beating him with lathi for which the victim sustained injuries.
16. The prosecution side to prove the aforesaid contention examined as many as six numbers of witnesses out of which PW-1 is the informant and he testified in his evidence that in the year 2016 at about 4 PM, while he was changing the electric wire of his house, the accused assaulted him with lathi on his head and due to that he sustained injuries. PW-2 is one Sunita Munda who deposed that on 07.11.2016 at about 4 PM, she heard commotion from the house of accused and coming out from her house she saw accused lying with injuries. Thereafter, PW-2 was declared hostile and she was cross examined by the prosecution side. The assertion assured by PW-2 during her cross examination by prosecution side appears to be that she heard an altercation in a meeting for putting the electric wire in the backside of the house of the accused and due to that altercation took place between the accused Rajen Munda and the informant Sri Anju @ Anjan Pradha. The prosecution side at the time of cross examining the PW-2 bring out the announcement and those unquestionably disclosed that there was an altercation between the accused and the informant. The defence side also cross examined PW-2 and from the cross examination of PW-2, it divulge that the electric wire was given over the house of accused by the informant and due to that accused lodged one ejahar against the informant. She had not seen any "marpit" between the informant and the accused.

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17. The prosecution side although cross examined PW-2 and the averments of prosecution which denied by PW-2 during the cross examination not confirmed by the prosecution at the time of examining the I.O (PW-6). As such, denial part of PW-2 that release due to cross examination of the prosecution not appears to be supportive and corroborative. PW-3 heard about the quarrel, which took place between the informant and the accused. PW-4 also heard that accused assaulted her father and her father sustained injuries. She in her evidence herself stated that she had not seen the incident.
18. PW-5 is the medical officer and on examination of the victim, she found pain over his neck region and she did not find any external injury on the body of the victim. PW-6 is the investigating officer of this case, who exhibited the sketch map to be Ext-3 and charge sheet to be Ext-4. In his cross examination admitted that the date of alleged incident was on 07.11.2016 and the ejahar was received on 08.11.2016 and the case was registered on 09.11.2016.
19. To sum up the evidences on record, it disclosed before this court that except the victim, the prosecution side failed to examine any of the eye witness to the alleged incident. The victim in his evidence claimed that he was assaulted with lathi and he sustained injuries on his head but the medical report vide Ext-2 not disclosed any of the external injury of that nature on his head. PW-5 being the medical officer in his evidence categorically deposed that there was no any external injury disclosed from the body of the victim and he only at examining the victim found the victim to be complaining pain on his neck, if so then it makes crystal clear that the PW-1 being the victim appears to be conflicting with his own version as he contended in the ejahar as well as in his evidence in respect of actual injury sustained by him.
20. Now, coming to the other testimonies of the prosecution witnesses, it unveiled before this court that the evidence of PW-2 who admittedly declared to be a hostile and from the cross examination part of prosecution to said witness and the evidence disclosed from his cross-examination makes it resounding and gemstone apparent that on the date of alleged incident there was an altercation between the informant and the accused person and such fact makes the prosecution story to be incompatible.

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21. From the aforesaid discussion this court finds that evidences of prosecution side appears to be contradictory in respect of charge of causing voluntary simple hurt upon the body of victim. Furthermore, the victim has not deposed anything to support the fact of threatening him with dear consequences of life by the accused.
22. Therefore, in the light of foresaid discussion, this court finds that the evidences presented before this court by the prosecution side appears to be contradictory and that makes their evidences doubtful in nature. Accordingly, the version of PW-1 cannot be relied upon as the same appears to be not supportive with any other evidence.
23. In the result it can be safely concluded here by way of observing that prosecution side failed to prove the guilty of accused beyond any shadow of doubt. Accordingly, the accused is entitled to get the benefit of doubt and consequently the accused person is acquitted from the charge u/s- 323/506 of IPC and sets at liberty. Surety is extended for six months in view of section 437A of Cr PC.
24. Accordingly, the case is disposed of. Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 5th day of November, 2020 at Tezpur.

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

ANNEXURE

1. Witnesses for Prosecution:-

PW-1 :- Anju @ Anjan Pradhan, the informant

PW-2 :- Sunita Munda

PW-3 :- Smt. Bina Tanti

PW-4 :- Smt. Manju Tanti

PW-5 :- Dr. Hemanta Saikia, M.O

PW-6 :- ASI Pradip Kumar Nath, I.O

2. Witnesses for Defence :- NIL

3. Court Witnesses : NIL

4. Prosecution Exhibits:

Ext 1 :- FIR

Ext 1(1) :- Signature of PW-1

Ext 2 :- Injury Report

Ext 2(1) :- Signature of PW-5

Ext 3 :- Sketch Map

Ext 3(1) :- Signature of PW-6

Ext 4 :- Charge Sheet

Ext 4(1) :- Signature of PW-6

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur