

**G.R No-2091 of 2015
(State of Assam Vs Sri Kuldeep Singh & Anr)**

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

G. R. Case No. 2091 of 2015

Under section-447/294/506/34 of I.P.C

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

State of Assam

-Vs-

1. Sri Kuldeep Singh
S/O:- Late Kashmir Singh

2. Sri Dilbag Singh Arora
S/O:- Sri Kuldeep Singh

Both are R/O:- Rangapara Ward No-1

P/S:- Rangapara

Dist:-Sonitpur, AssamAccused Persons

Advocate appeared:

Mr. N. K. Mishra, Addl. P.P..... For the State

Mr. Gautam Sarkar & Anr, Ld. Advocates..... For the accused persons

Evidence recorded on :- 09.02.2021

Date of Statement of defence :- 09.02.2021

Argument heard on :- 09.02.2021

Judgment delivered on :- 09.02.2021

J U D G M E N T

History of Prosecution's Case

1. Prosecution's case appears to be in a narrow campus is that on 10.08.2015 one Miss Banu Naznin Rahman lodged an ejahar before the O/C of Rangapara P.S alleging inter alia that on 01.08.2015 at about 11 PM, the accused persons, namely, Sri Kuldeep Singh, Sri Dilbag Singh and Sri Raju Singh, who are her neighbours illegally entered into her courtyard and started abusing her with filthy languages. It is also alleged that thereafter, when her father and mother came out

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from their house, all the accused persons threatened her father to kill and also threatened her to kidnap her.

“INVESTIGATION”

2. On receipt of the ejahar, Rangapara P.S Case No. 85 of 2015 under section-447/294/506/34 of Indian Penal Code was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet under section-447/294/506/34 of I.P.C against the accused persons, namely, Sri Kuldeep Singh, Sri Dilbag Singh and Sri Raju Singh. During the appearance stage the case against accused named Sri Raju Singh was filed vide order dated-10.10.2019 on acceptance of P&A and accordingly the instant case proceed against accused persons, Sri Kuldeep Singh, Sri Dilbag Singh.

CHARGE & TRIAL

3. In pursuant to the court's process, the accused persons appeared before the court and they were allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above named accused persons. After hearing both side, particulars of offences u/s-447/294/506/34 of I.P.C. were read over and explained to the accused persons by my Ld. Predecessor in office, on which they pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused persons examined the informant-cum-victim of this case. Considering the testimony of the informant, prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Examination of accused persons under section-313 of Cr.P.C is dispensed with as from the testimony of the informant-cum-victim nothing implicating disclosed against the accused persons.

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.

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6. The points for determination in this case are:

- (i) Whether on 01.08.2015 at about 11 PM at a place called Rangapara Ward No-1, J.N. Road under Rangapara PS, the accused persons in furtherance of their common intention illegally entered into the courtyard of informant named Miss Banu Naznin Rahman with intent to commit an offence and thereby committed an offence punishable under section-447/34 of IPC?
- (ii) Whether the accused persons on the same date, time and place in furtherance of their common intention scolded the informant using filthy languages and thereby committed an offence punishable u/s-294/34 of IPC?
- (iii) Whether on the same date, time and place the accused persons in furtherance of their common intention committed criminal intimidation by threatening the informant and her parents with dear consequences of their lives and thereby committed an offence punishable u/s-506/34 of IPC?

DECISION, DECISION AND THE REASON THEREOF:

- 7. In this case, prosecution side has got the burden of prove that on 01.08.2015 at about 11 PM, the accused persons, namely, Sri Kuldeep Singh, Sri Dilbag Singh and Sri Raju Singh, who are her neighbours illegally entered into her courtyard and started abusing her with filthy languages and when her parents came out from their house, all the accused persons threatened her father to kill and also threatened her to kidnap her. In this case prosecution side to prove the case examined only the informant-cum-victim of this case. I have carefully travelled through the testimony of the prosecution witness in the backdrop of entire prosecution case and it finds:-

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8. PW-1, Miss Banu Naznin Rahman being the informant-cum-victim of this case deposed before this court that she knows the accused persons of this case. She further deposed that the incident took place around 6 years back one day at about 11 PM and on the date of alleged incident, when the accused went to her house she had an altercation with them as the accused had some problem with her brother and due to misunderstanding she lodged the ejahar against the accused persons. Now, she does not want to proceed further against the accused persons. She identified her ejahar as Ext-1 wherein she put her signature as Ext-1(1).
9. Hence, it apparently appears before this court that PW-1 being the informant-cum-victim of this case contradicted the entire contentions of the ejahar by way of testifying that she had an altercation with the accused persons and due to misunderstanding she lodged the instant case against the accused persons. PW-1 simply deposed before this court that now she does not want to proceed further against the accused persons.
10. To sum up the testimony of the informant-cum-victim, it reveals before this court that the informant-cum-victim appears to be contradictory with the entire contention of the ejahar and her testimony cannot be relied upon.
11. In view of the above evidence on record, I am of the opinion that prosecution side has failed to prove the charges against the accused persons, namely, Sri Kuldeep Singh and Sri Dilbag Singh Arora beyond reasonable doubt and as such both the accused persons are acquitted from the charges u/s-447/294/506/34 of IPC and sets at liberty. Surety is extended for six months in view of section-437A of Cr PC.
12. Judgment is pronounced in the open court, which is given under my hand and seal of this court on 09th day of February, 2021.

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

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ANNEXURE

1. Witnesses for Prosecution:-

PW-1:- Miss Banu Naznin Rahman, the Informant

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

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

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur