

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR

G.R Case No. 1246/2010
U/S- 341/294/325/429 of I.P.C.

State Prosecutor
-vs-

Sri Jamal Munda @ Guriar
S/O:- Sri Dugaru Guriar @ Munda
Vill:- No-2, Balijuri Panchmukh
P/S:- Jamugurihat
Dist:- Sonitpur, Assam
..... Accused person

Present: JUHI GOGOI, B. Sc, LL.M, A.J.S.
JUDICIAL MAGISTRATE FIRST CLASS,
Tezpur.

For the Prosecution :- Mr. A. K. Sahani, Ld. A.P.P.
For the Defence :- Mr. Bipin Kotaki & Anr, Ld. Advocates.
Charge framed on :- 20/03/2019
Date of Evidence :- 15/05/2019
Date of Argument :- 15/05/2019
Date of Judgment :- 22/05/2019

JUDGMENT

1. The factual matrix of the prosecution case as revealed from the FIR lodged by the informant- Sri Chandra Bahadur Magor is that on 03.07.2010 at 4 PM, when his sister Miss Joli Maya Devi went to see their cows in the field situated near the house of the accused Jamal Munda, the accused uttered words towards her by alleging that her cows ate his "kothiya" and also assaulted her with a bamboo stick and caused her grievous injury and also broke her right hand. It has been stated that the accused had also badly assaulted her one of the bull. Hence, this case.

2. On receiving the F.I.R, the police registered a case as Jamuguri Police

Ms. Juhi Gogoi
JMFC, Tezpur, Sonitpur

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Station Case No-55/10 u/s-341/294/354/325/429 of I.P.C and investigation was done by the investigating officer. On completion of the investigation, the investigating officer of this case submitted Final Form against the accused person u/s-341/294/354/325/429 of I.P.C vide Final Form No.45/10 dated 27.07.2010.

3. On submission of the Final Form, my Ld. Predecessor has taken cognizance of offence u/s-341/294/354/325/429 of I.P.C against the accused person. On appearance of the accused person, copy was furnished to him and both the sides were heard on the point of charge and on consideration of all, the charge of offence u/s-341/294/325/429 of IPC was framed against the accused person by my Ld. Predecessor and the same was read over and explained to him, to which he pleaded not guilty and claimed to be tried. Thereafter, summons was issued to the PWs.

4. In the course of trial, the prosecution side has examined only two witnesses including the informant in support of this case. The prosecution declined to proceed further. Examination of accused person u/s-313 Cr.P.C is dispensed with as there is no incriminating material against him.

5. **POINTS FOR DETERMINATION:-**

a. Whether the accused person on 03.07.2010 at about 4 PM at No-2 Balijuri Panchmukh under Jamuguri PS, wrongfully restrained the informant's sister-Joli Maya Devi while and thereby committed an offence of punishable u/s 341 of I.P.C?

b. Whether the accused person on the same date, time and place uttered obscene words towards the informant's sister in public place, causing annoyance to others and thereby committed the offence punishable u/s-294 of I.P.C?

c. Whether the accused person on the same date, time and place had voluntarily caused grievous hurt to the informant's sister- Joli Maya Devi and thereby committed the offence punishable u/S-325 of I.P.C?

d. Whether the accused person on the same date, time and place committed mischief by naming and rendering useless the cow belonging to Smt. Jolimaya Devi and thereby committed the offence punishable u/s-429 of I.P.C?

DISCUSSION, DECISION AND REASONS THEREOF:-

I have heard arguments from both sides at length and perused the case record in its entirety. Let me first put forth the evidence on record to arrive at a definite finding on the point for determination framed by me.

6. **The Informant – Sri Chandra Bahadur Magar has been examined as P.W-1.** He has specifically stated in his evidence that the incident took place on 04.07.2010 and on the relevant day, he and his sister had an altercation with the accused person relating to the grazing of cows and a scuffle also took place between them in which his sister Joli Maya Devi fell down by herself and sustained injuries. Thereafter, out of anger he lodged the FIR. Exhibit-1 is the FIR and Exhibit-1(1) is his signature.

During the cross-examination of PW-1, he stated that the accused had not assaulted him and his sister and thereby, he has no objection if the accused person is acquitted.

7. **Miss. Joli Devi Maya has been examined as PW 2.** She stated that she knows the informant, who is her brother and the accused person, who is her neighbour. She stated that her brother lodged the case in the year 2010 and on the relevant day, they had an altercation with the accused person relating to grazing of cows and a scuffle also took place between them in which she fell down by herself and sustained injury. Out of anger her brother lodged the FIR.

During the cross-examination of PW-2, she stated that the accused person has not beaten her up and as such she has no objection if the accused person is acquitted.

8. Analysing the testimonies of the prosecution witnesses including the informant and the victim, it is clear that there was only an altercation relating to grazing of cows between them and the case was lodged out of anger. Moreover, they have admitted that the accused person has not beaten them and they got injuries by themselves. The informant as well as the victim further stated that they have no objection if the accused persons are acquitted. Thus, the informant as well as victim has not incriminated the accused person in any way and there is nothing available in the testimony of the prosecution witnesses to hold the accused person guilty under the alleged sections of law.

9. In the light of the above discussion, in my considered opinion, the prosecution has failed to prove the case against the accused persons.

O R D E R

10. Hence, considering the above discussions, the accused person is found not guilty of the alleged offence under section 341/294/325/429 of I.P.C and he is **acquitted accordingly**.

11. The bail-bonds executed in favour of the accused person is extended for a further period of six months from this date as per Section- 437(A) of Cr.P.C.

12. Pronounced by me in this open Court, on this the 22nd day of May, 2019 and given under my hand and seal of this court.

JUHI GOGOI

JMFC, TEZPUR

A P P E N D I X

PROSECUTION WITNESSES

PW 1 :- Sri Chandra Bahadur Magar, the informant

PW 2 :- Miss Joli Maya Devi, the victim

PROSECUTION EXHIBITS.

Exhibit 1 : FIR

Exhibit (1) : Signature of PW 1.

DEFENCE WITNESSES

NONE.

DEFENCE EXHIBITS

NIL.

**JUHI GOGOI
JMFC, TEZPUR**