

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE

SONITPUR, TEZPUR, ASSAM

PR CASE NO:- 433/19

(GR 5153/17)

U/S – 294/506/507 IPC

State of Assam

Vs

Md Saddam Hussain

Accused person

Present : Sri. Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate

For Prosecution : Sri. P. Baruah, Learned Addl. Public Prosecutor.

For the accused : Md M Rahman, Ld Defence Counsel

Evidence recorded on : 28-11-19, 30-01-21

Arguments heard on : 11-02-2021

Judgement delivered on : 17-02-21

J U D G M E N T

1. The prosecution story emanates from the FIR lodged by one Mustt Marjina Khatun on 25-12-17 stating inter alia that that on 24-12-17 at about 11 pm one unknown person telephoned on the mobile of her husband being No 9101922748 and threatened to kidnap her daughter Marami. The informant also alleged that the person uttered obscene words and also demanded money. Hence this case.

2. After completion of investigation the police filed charge-sheet against the accused Md Saddam Hussain u/s- 294/506/507 IPC. At the relevant point of time, on receipt of summons the accused appeared before this Court and he was furnished copies as mandated u/s 207 Cr.P.C. Having found a case against the accused u/s- 294/506/507 IPC, charges under said sections of law were framed, read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

3. The prosecution examined 3 (three) witnesses and defence examined none. The accused was examined u/s-313 Cr.P.C. wherein he stated that the prosecution case is false.

Points for determination

- i. Whether on 24-12-17 at about 11 pm the accused person uttered obscene words at the informant to the annoyance of others and also committed criminal intimidation by threatening and thereby committed an offence punishable under Section 294/506 of IPC?
- ii. Whether on the same day the accused committed criminal intimidation by sending an anonymous communication threatening the informant with injury to her reputation and thereby committed an offence punishable under Section 507 of IPC?

Discussion of evidence

4. PW1 Mustt Morjina Khatun is the informant of this case and she deposed that she knows the accused standing in the dock who had worked under her husband at the water Resources Department. One night about one year ago the accused continuously telephoned her from 11 pm to 2 am. On that day her husband had gone elsewhere for his treatment. The accused demanded money from her and threatened that he would kidnap her daughter if his demand was not fulfilled. The accused repeatedly telephoned her. Next morning her nephew gave a call at the number of the accused from which the latter had called her the previous night and then they came to know that it was the accused who had given her threat calls. She then lodged ejahar against the accused. Ext.1 is the ejahar lodged by her and Ext.1(1) is her signature there on.

In cross-examination, she stated that she knows that the mobile from which the accused had called her belongs to him. She denied that her husband had not paid due wages to the accused and whenever the accused asked her husband to pay him his wages, the latter physically assaulted him and gave him various threats. She also denied that her husband had incited her to lodge this false case against the accused as the latter was about to lodge a case against her husband.

5. PW2 Mustt Sajina Khatun is the daughter of the informant and she deposed that she does not know the accused standing in the dock today. On the night of the occurrence, a call was received at the mobile phone of her father and after receiving the call she handed over the mobile to her mother. She does not know who had called. She knows that someone hurled at her mother over phone and her mother started crying after receiving the call.

6. PW3 Mustt Monowara Begum deposed that she knows the informant of this case who is her elder sister. About two years ago one day the informant told her that someone had telephoned her and hurled abuses at her at about 11 P.M. The informant also told her that the caller had threatened her that if she did not pay him money then he would kidnap her daughter.

In cross-examination, she stated that she has no personal knowledge of the incident.

DECISION AND REASONS THEREOF

7. I have heard the prosecution and defence side.

8. Let me now analyse how far prosecution side has been able to prove its case beyond all reasonable doubt against the accused.

9. In course of her evidence, it is seen that the informant stated inter alia that on the next morning of the incident when her nephew gave a call at the mobile number of the accused then they came to know that it was the accused who had given her threat calls. However, prosecution side for reasons best known to it, did not produce any call detail record (CDR) pertaining to the mobile number of the accused as well as the mobile number of the informant from which and to which calls were allegedly made. In the ejahar, the informant has mentioned the mobile number from which calls were allegedly made to her. However, no CDR in respect of the said mobile number has been submitted by the prosecution side. Again it is seen that in the ejahar, the name of the accused has not been disclosed whereas informant in course of her evidence stated that on the next morning following the day of incident they had come to know that it was the accused who had given her threat calls. The ejahar was lodged one day after the incident. As such, it is not understood as to why name of the accused has not been disclosed in the ejahar. Instead it is alleged in the ejahar that some unknown miscreant had given threat

calls to the informant. In addition to the above it is seen that PW2 who is the daughter of the informant stated in course of her evidence that she does not know who had given threat call to her mother and PW3 has no personal knowledge about the incident. The prosecution side did not examine any other witness.

10. In view of the above and considering the evidence of PW1, PW2 and PW3, it is hereby held that prosecution has failed to prove its case beyond all reasonable doubt. As such this court holds that the accused Md Saddam Hussain is not guilty of the offence U/S 294/506/507 IPC and he be set at liberty forthwith. The bail bond furnished by the accused person is hereby extended for six months from today (17-02-2021).

11. Seized articles if any, be delivered to his lawful owner after proper verification and following the process of law.

12. Judgement is delivered and pronounced in open court.

13. A free copy of judgment be forthwith given to the accused.

14. Given under my hand and seal of this court on this 17th day of February, 2021.

Sri Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur

APPENDIX

Prosecution witnesses:-

PW1 Mustt Morjina Khatun

PW2 Mustt Sajina Khatun

PW3 Mustt Monowara Begum

Defence witness:

Nil

Documents exhibited by the prosecution :-

Ext. 1 Ejahar

Documents exhibited by the defence -: Nil

Sri Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur