

**IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),
GOHPUR, SONITPUR**

P.R. CASE No. 65/2020

U/S 294/506/323 IPC

State

Vs

Sri Manash Saikia

.....Accused

PRESENT: Sri B. Acharyya, LL.M., A.J.S.

Sub-Divisional Judicial Magistrate (M), Gohpur, Sonitpur

Appearances:

For the Prosecution: Smti Barnali Chetia, Ld. APP

For the Defence: Smti Manju Agarwala, Ld. Adv.

Offence explained on: 15.12.2020

Date of Evidence: 11.02.2021

Date of Argument: 11.02.2021

Date of Judgment: 26.02.2021

J U D G M E N T

1. The Prosecution case in brief is that one Smti Lila Saikia has filed an FIR on 04.02.2020 stating, inter alia, that she has filed FIR against her own son who on 31.01.2020 at about 11:00 P.M at her own house at Solengi had assaulted her and abused her using slang words. Informant further stated that at the time of incident, accused tried to assault her using dao and she raised hue and cry and then nearby people came and rescued her. Accused also damaged her household properties by

putting fire. Informant also stated in the FIR that accused has been attempting to kill her since last many months. Hence the case.

2. The O.C Gohpur P.S upon receiving the FIR registered a case vide Gohpur P.S Case No. 49/20 under Section 294/436/506/325/307 of the Indian Penal Code. After investigation, the I.O laid down the Charge sheet under Section 294/506/323 of the Indian Penal Code against accused Sri Manash Saikia for trial.
3. On appearance before the court, accused person was furnished with copies of relevant documents u/s 207 of the Cr.P.C and upon hearing both sides, offences u/s 294/506/323 of the Indian Penal Code was explained to the accused and he pleaded not guilty and claimed to be tried.
4. The Prosecution examined 1 (one) witness i.e the informant of this case. Thereafter, Ld. APP has prayed to close the evidence of Prosecution and accordingly, prayer was allowed.
5. The recording of statement of the accused person u/s 313 of the Cr.P.C was dispensed with as there does not appear any incriminating material from the evidence on record.
6. Heard arguments put forward by the learned counsel for the accused person and the learned APP for the State and also perused the evidence and materials on record.

POINTS FOR DETERMINATION:

The following Points have been taken up for determination and discussion in this case:

- 1. Whether accused Sri Manash Saikia on 31.01.2020 at about 11:00 P.M at his house at Solengi abused his mother Smti Lila Saikia, being the informant of this case, by using slang words and thereby committed an offence punishable under Section 294 of the Indian Penal Code?**
- 2. Whether accused Sri Manash Saikia on 31.01.2020 at about 11:00 P.M at his house at Solengi threatened the informant with a dao to kill her and threatened to end her life and thereby committed an offence punishable under Section 506 of the Indian Penal Code?**

3. Whether accused Sri Manash Saikia on 31.01.2020 at about 11:00 P.M at his house at Solengi assaulted the informant causing injuries to the informant and thereby committed an offence punishable under Section 323 of the Indian Penal Code?

DISCUSSION, DECISION & REASONS THEREOF:

7. Smti Lily Saikia as PW 1 had deposed that she filed an ejahar against her son because of misunderstanding from village people. PW 1 only had an altercation with her son in the month of March 2020. Subsequently she filed an FIR out of complete misunderstanding. PW 1 further stated that accused is a mental patient. PW 1 further stated that she does not know the whereabouts of her son from the last three months. She further stated that her son does not have any fault and she filed this case wrongly. PW 1 wants that this case may be disposed off. Ext. 1 is the FIR and Ext. 1(1) is her signature.

Cross examination of PW 1 was declined by the defence.

8. Upon appreciation of the evidence of the informant available in the record, it is seen that informant does not have any grievance against her son who is the accused in this case. Moreover, she has clearly stated that she has filed this case out of complete misunderstanding and she only had a verbal altercation with her son. Moreover, informant has clearly stated that she does not want to proceed with the case any further. In such a situation, as the informant did not implicate the accused person, he is entitled to be acquitted.
9. In view of above discussion and considerations, it can be said that the alleged offences have not been established against the accused person by the Prosecution and hence accused person is entitled to be acquitted of the offences under Sections 294/506/323 of the Indian Penal Code and aforesaid Points for determination of this case is decided in favour of the accused person.

ORDER

Hence I hold that accused Sri Manash Saikia is not guilty of committing offences punishable under Sections 294/506/323 of the Indian Penal Code. Accordingly, he is acquitted from the offences punishable under Sections 294/506/323 of the Indian Penal Code and is set at liberty forthwith.

The bail bond of the accused person shall stand cancelled and surety shall be discharged after the expiry of 6 (six) months period from today.

The case stands disposed off on contest.

The Judgment is delivered in the open Court in presence of the accused person and his Advocate. The Judgment is given under my hand and seal of this Court on this the 26th day of February, 2021.

(B. Acharyya)

S.D.J.M (M), Gohpur, Sonitpur

Appendix:

Prosecution Witness:

PW 1: Smti Lily Saikia

Documents Exhibited by Prosecution:

Ext. 1: FIR

Ext. 1(1): Signature of Informant

Defence Witness: Nil

Documents Exhibited by the defence: Nil

(B. Acharyya)

S.D.J.M (M), Gohpur, Sonitpur