

P.R. CASE NO.03/2019

STATE OF ASSAM–VS-SRI NABA KUMAR HAZARIKA

DISTRICT: SONITPUR
IN THE COURT OF MR. A. HAZARIKA,S.D.J.M.(M) AT BISWANATH CHARIALI.

P.R. Case No.03/2019

U/S 447/294/323OF I.P.C.

STATE OF ASSAM

.....**PROSECUTOR**

-VERSUS-

SRI NABA KUMAR HAZARIKA,

S/O.SRI JAY CHANDRA HAZARIKA,

R/O. VILLAGE- NEPALI BASTI,

P.S. BEHALI, DIST. BISWANATH, ASSAM.

.....**ACCUSED PERSON**

PRESENT: MR. A. HAZARIKA, S.D.J.M.(M) AT BISWANATH CHARIALI.

ADVOCATE FOR THE PROSECUTION: ADDL.P.P, MS. S. BORAH,

ADVOCATES FOR THE ACCUSED PERSONS: MR.D. DAS.

OFFENCE EXPLAINED ON: 21.08.2019,

EVIDENCE RECORDED ON: 20.02.2021,

ARGUMENT HEARD ON: 20.02.2021 AND

JUDGMENT DELIVERED ON: 20.02.2021.

JUDGMENT

- 1.** The prosecution case in brief is that one Sri Brajen Das lodged an F.I.R. before O.C. Behali P.S. stating inter-alia that on 10.03.2017 at about 04.30 p.m. a person namely BaikhistaKataki came to the home of informant under the influence of liquor and started creating nuisance therein. The informant pushed back the said BaikhistaKataki. On such incident the accused Jagat Das came and assaulted the informant in his head as well as in different parts of body with a bamboo stick. Hence, this case.
- 2.** On receipt of the F.I.R./CBehaliP.S.registered the same as BehaliP.S. Case No.25/17, U/S 447/294/325/34of I.P.C. and conducted investigation into the

matter. On completion of the investigation, the police submitted charge-sheet against the accused person U/S 447/294/323 of I.P.C.

- 3.** The accused person entered his appearance in response to the process issued. Copies of the relevant documents were furnished to the accused person in accordance with Section-207 Criminal Procedure Code. Particulars of offences U/S 447/294/323 of I.P.C. are read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4.** During trial, the prosecution examined only 3 (two) witnesses and exhibited 1 (one) document after which the prosecution evidence is closed. The statement of defence of the accused person as mandated by Section-313 Criminal Procedure Code is dispensed with due to lack of sufficient materials. Defence declined to adduce any evidence.
- 5.** Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court:
 - i) *Whether the accused person on 10.03.2017 at about 04.30p.m. trespassed into the property of Sri Brajen Das and thereby committed an offence punishable u/s 447 of I.P.C.?*
 - ii) *Whether the accused person on 10.03.2017 at about 04.30p.m. scolded Sri Brajen Das in obscene language in or near to public place and the same caused annoyance to him and thereby committed an offence punishable u/s 294 of I.P.C.?*
 - iii) *Whether the accused person on 10.03.2017 at about 04.30p.m. voluntarily caused hurt to Sri Brajen Das and thereby committed an offence punishable u/s 323 of I.P.C.?*
- 6.** I have heard the learned counsel on both sides and have gone through the evidence on record which have been outlined below.

EVIDENCE

- 7. P.W.1** Sri Brajen Das, the informant deposed that in the year of 2017 in a day at about 04.00 p.m. he had some verbal altercation with the accused due to some family matter. Hence, he lodged the F.I.R. out of anger. He exhibited the F.I.R. as Ext.1. During cross-examination he deposed that he do not know that is written in the F.I.R. The verbal altercation took place outside his home. He stated that he has mutual settlement with the accused as such he does not have any objection in acquitting the accused.
- 8. P.W.2** Smt. Dipa Das, the wife of informant deposed that she do not know about the incident as she has not seen the quarrel. **P.W.3** Sri Kanu Bania deposed that he does not know about the incident but he heard that a quarrel took place between the informant and accused.

DICISSION, DISCUSION AND REASON FOR DICISSION:

- 9.** For the sake of convenience all the points for determinations are taken together:

POINT FOR DETERMINATION No.(i), (ii)AND (iii):

- 10.** The evidence of P.W.1, P.W.2 and P.W.3 are of such a nature that it could be easily understood that the incident took place out of misunderstanding out of a simple verbal altercation only. The contents of F.I.R. and the available evidence does not matched with each other. The offence U/s 447 of I.P.C. is not at all attracted as P.W.1 himself deposed that the verbal altercation took place outside of his home. The nature of verbal altercation is not mentioned as such it could not be known as to whether the same was obscene or not. Further there is no allegation of physical altercation in the prosecution evidence. Therefore, considering the evidence of P.W.s it reveals that the prosecution has measurably failed to prove any offences U/s 447/294/323 of I.P.C. against the accused person. Accordingly, the accused person is found to be not guilty for committing offences U/s 447/294/323 of I.P.C. and thus he is acquitted.

ORDER

Accused person is hereby acquitted from the charges and set at liberty forthwith.

The bail bonds of the accused person and his surety shall remain in force for six months from today as per section 437A Cr.P.C.

Given under my hand & seal of this Court on this 20th day of February, 2021.

Dictated & corrected by me
Sub-Divisional Judicial Magistrate (M)
Biswanath Chari Ali

(Amarendra Hazarika)

APPENDIX

PROSECUTION EXHIBIT:

EXHIBIT-1: FIR DATED 12.03.2017.

DEFENCE EXHIBIT:

NONE.

PROSECUTION WITNESS:

PW1- Sri Brajen Das, the informant/victim,
PW2-Smt. Dipa Das, the wife of informant and
PW3-Sri Kanubania.

DEFENCE WITNESS:

NONE.

(Amarendra Hazarika)
Sub-Divisional Judicial Magistrate (M)
Biswanath Chari Ali