

P.R No-182 of 2018
(State of Assam Vs Md. Manoj Khan)

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

P. R. Case No. 182 of 2018

Under section-294/323/506 of I.P.C

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

State of Assam

-Vs-

Md. Manoj Khan

S/O:- Late Hussain Khan

R/O:- Kacharigaon

P/S:- Tezpur

Dist:-Sonitpur, AssamAccused Person

Advocate appeared:

Mrs. Gitali Das, Asst. P.P..... For the State

Mr. Debashish Borah & Anr, Ld. Advocates..... For the accused person

Evidence recorded on	:- 08.02.2021
Date of Statement of defence	:- 08.02.2021
Argument heard on	:- 08.02.2021
Judgment delivered on	:- 08.02.2021

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 09.11.2017 one Md. Moinul Haque lodged an ejahar before the O/C of Tezpur P.S through I/C of Kacharigaon Police Outpost alleging inter alia that on the said date at about 6:45 PM, while he was eating betel in the shop of one Wahab, the accused person without any reason physically assaulted him and also snatched away his gold chain from his neck. It is also alleged that the accused took away Rs.70,000/- from his pocket and also threatened him of dire consequences of his life.

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"INVESTIGATION"

2. On receipt of the ejahar, Tezpur P.S Case No. 2311 of 2017 under section-294/323/379/506 of I.P.C was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s-294/323/506 of I.P.C against the accused person.

CHARGE & TRIAL

3. In pursuant to the court's process, the accused person appeared before the court and he was allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above named accused person. After hearing both side, particulars of offences u/s-294/323/506 of I.P.C. was read over and explained to the accused person by my Ld. Predecessor in office, on which he pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused person 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 person 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 person.

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.

6. **The points for determination in this case are:**

- (i) Whether on 09.11.2017 at about 06:45 PM, the accused person uttered obscene words and language towards the informant-cum-victim named Md. Moinul Haque to the annoyance of others and thereby committed an offence punishable under section-294 of I.P.C?
- (ii) Whether on the same date, time and place, the accused person voluntarily caused simple hurt upon the body of

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the informant-cum-victim and thereby committed an offence punishable u/s-323 of IPC?

(iii) Whether on the same date, time and place, accused threatened the victim with dire consequences of his life and thereby committed an offence punishable under section-506 of IPC?

DECISION, DECISION AND THE REASON THEREOF:

7. In this case, prosecution side has got the burden of prove that on the date of alleged incident at about 6:45 PM, while he was eating betel in the shop of one Wahab, the accused person without any reason physically assaulted him and also snatched away his gold chain from his neck. It is also alleged that the accused took away Rs.70,000/- from his pocket and also threatened him of dire consequences of his life. In this case prosecution side to prove the case examined only the informant-cum-victim of this case. I have carefully travelled through the testimonies of the prosecution witnesses in the backdrop of entire prosecution case and it finds:-
8. PW-1, Md. Moinul Haque being the informant-cum-victim of this case deposed before this court that he knows the accused person of this case and he is his neighbour. He further deposed that around three years back at about 5:30 PM, he had an altercation with the accused in front of his house and due to that he lodged the ejahar on misunderstanding against the accused person. Now, he does not want to proceed further against the accused person. He identified his signature as Ext-1 wherein he put his signature as Ext-1(1). PW-1 in his cross-examination testified that he does not have any objection if the accused gets acquittal from this case.
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 he had an altercation with the accused person and due to misunderstanding he lodged the instant case against the accused person. PW-1 simply deposed before this court that now he does not want to proceed with

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this case further against the accused person and thereafter, he does not have any objection if the accused persons are acquitted from this case.

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 his 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 person, named, Md. Manoj Khan beyond reasonable doubt and as such the accused person is acquitted from the charges u/s-294/323/506 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 08th day of February, 2021.

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

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ANNEXURE

1. Witnesses for Prosecution:-

PW-1:- Md. Moinul Haque, 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