

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE
SONITPUR, TEZPUR, ASSAM

PRC Case No 551/19

(GR CASE NO:- 3068 of 2018)

U/S – 448/354(B) of the Indian Penal Code

State of Assam

Vs

Sri Parimal Tarakdar

Present : Sri. Angshuman Bhattacharjee,
Addl. Chief Judicial Magistrate

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

For the accused : Md M Islam and Md I Hoque, Learned Advocates.

Evidence recorded on : 05.02.2021

Arguments heard on : 05.02.2021

Judgement delivered on : 05.02.2021

Judgement

1. The prosecution story emanates from the FIR lodged by one Smti Sefali Das on 03-08-2018 stating inter alia that on 2-8-18 at about 2 am, accused Sri Parimal Tarakdar entered into her house and attempted to molest her. When she raised hue and cry, he fled away and after the occurrence, Sri Kartik Tarakdar assaulted her family members with a lathi. Hence, this case.

2. After completion of investigation the police filed charge-sheet against the accused Sri Parimal Tarakdar u/s 448/354(B) of the Indian Penal Code. 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- 448/354(B) of I.P.C., particulars of offence under the said sections were explained to the accused to which he pleaded not guilty and claimed to be tried.

3. The prosecution examined one witness and on the oral prayer of prosecution and defence sides as well as considering the materials on record, further prosecution evidence and SD were dispensed with.

Points for determination:-

- i. Whether the accused on 2-8-18 at about 2 am criminally trespassed into the premises of the house of the informant with intent to commit an offence and is liable to be punished under section 448 of IPC?
- ii. Whether the accused on the same date, place and time, had assaulted or used criminal force to the informant with the intention of compelling her to be naked and thereby committed offence punishable U/S 354(B) of IPC ?

Appreciation of evidence, decision and reasons thereof:-

4. PW1, Smti Sefali Das is the informant of this case. She deposed that accused is her neighbour. On 04-8-18 at about 8 am there took place a quarrel between her and the accused over a trivial matter. Then out of misunderstanding and being incited by others, she lodged this case against the accused. Subsequently, she has amicably settled her dispute with the accused and they have resolved to reside peacefully. She does not have any grievance against the accused person. Ext.1 is her ejahar and Ext.1(1) is her signature thereon.

5. Let me now analyse how far the prosecution has been able to prove its case against the accused. It is seen that the informant as PW1 in course of her evidence admitted that the instant case has been lodged out of misunderstanding and she does not have any grievance against the accused. PW1/informant has in no manner supported the prosecution case. This being the position, the prosecution case cannot be said to have been proved beyond all reasonable doubt.

6. In view of the discussions above it is hereby concluded that the prosecution has failed to prove its case beyond all reasonable doubt. As such this court holds that the accused Sri Parimal Tarakdar is not guilty of the offence U/S 448/354(B) of the Indian Penal Code and he be set at liberty forthwith. The bail bond furnished by the accused is hereby extended for six months from today (05-02-2021).

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

8. Judgement is delivered and pronounced in open court.

9. Given under my hand and seal of this court on this 5th day of February, 2021.

Sri. Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur

APPENDIX

Prosecution has examined one witness:-

PW 1 – Smti Sefali Das

Defence side has not examined any witness.

Documents exhibited by the prosecution :-

Ext.1 ejahar

Documents exhibited by the defence -: Nil

Sri. Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur