

IN THE COURT OF JUDICIAL MAGISTRATE

FIRST CLASS,

GOHPUR, SONITPUR

PRC Case No. 92/20

Under Sections 294, 341, 506, Indian Penal Code

STATE OF ASSAM

.....**PROSECUTION**

-VERSUS-

Mr. ATUL GOHAIN

S/O LT. TANKESWAR GOHAIN

VILL- KOKILA CHARIALI,

P.S- GOHPUR

DIST.- BISWANATH

.....**ACCUSED PERSON**

PRESENT: Mr. RAJ SEKHAR DUARA, JUDICIAL MAGISTRATE
FIRST CLASS, GOHPUR

ADVOCATE FOR THE PROSECUTION: Ms. SANTANA
BHUYAN, A.P.P
ADVOCATES FOR THE ACCUSED : Mr. TAPOSH
CHATTERJEE
Ms. SANAM
SAIKIA

CHARGE FRAMED ON: 08.04.21
EVIDENCE RECORDED ON: 22.12.21
ARGUMENTS HEARD ON: 22.12.21
JUDGMENT DELIVERED ON: 04.01.22

JUDGMENT

FACTUAL SCENARIO

1. The Prosecution's case can be surmised as: one Mr. Binod Baruah had lodged an F.I.R. dated 16.02.2019 before the officer-in-charge of the Gohpur Police station alleging inter alia that on 12.02.2019 at around 2 p.m., the accused Mr. Atul Gohain had obstructed the construction of a Bamboo bridge at Sonali Bori and threatened the laborers engaged in its construction stating that he will set it on fire. That night, the accused damaged the said bridge by cutting its posts and also lighted a fire on it. Hence, this case.

INVESTIGATION BY POLICE AND CHARGESHEET

2. On receipt of the F.I.R., Officer- in- charge of Gohpur P.S registered it on 17.02.2019 as Gohpur P.S. No. 62/19 under Sections 436, 506, 387, I.P.C. and initiated investigation into the matter. On completion of such investigation, the police submitted charge-sheet against the accused, Mr. Atul Gohain under Sections 294, 506, 341 of the Indian Penal Code.

APPEARANCE OF THE ACCUSED AND TRIAL

3. In due course, the accused person entered his appearance in response to the process issued. Copies of the relevant documents stipulated under section 207, Cr.PC. were furnished to him. Subsequently, formal charge under Sections 294, second part of Section 506 and Section 341, I.P.C. was framed and its particulars were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. During trial, in support of their case, the prosecution examined 1 (one) witness and exhibited 1 (one) document after which prosecution submitted for closure of its evidence and accordingly, evidence for prosecution was closed. Since the aforementioned witness did not bring forth any incriminating materials against the accused person in his deposition, the statement of the accused person as mandated

by Section 313, Criminal Procedure Code was dispensed with due to lack of sufficient materials. Defense did not adduce any evidence.

POINTS FOR DETERMINATION

5. Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court to arrive at a definite finding.

- i. Whether the accused person, on or about the 12th day of February, 2019 at 2 p.m. at Sonalibori, wrongfully restrained the laborers engaged in construction of a Bamboo bridge at Sonalibori and thereby committed an offence punishable under Section 341, I.P.C.?**
- ii. Whether the accused person on or about the same, date and place, hurled profanities and other obscene words in and around a public place and thereby committed an offence punishable under Section 294, I.P.C.?**
- iii. Whether the accused person on or about the same, date and place, committed criminal intimidation by threatening to set the bamboo**

bridge on fire and thereby committed an offence punishable under Section 506, I.P.C.?

6. I have heard the learned counsels for both sides and have gone through the evidence on record which has been outlined below.

EVIDENCE

7. P.W.1, Mr. Binod Barua, the informant, has deposed in his examination-in-chief that that he had lodged the F.I.R. which is Exhibit-1 and his signature over the same is Exhibit 1(1). He deposed in his testimony that the incident had happened in the month of January, 2020 when the time was around 8:30 a.m. in the morning. He states that a wooden bridge was burnt at Sonali bori and they had suspected the accused to be behind it. However, they were wrong and now the matter has been resolved. He states that the instant F.I.R. was filed out of a misunderstanding. He adds that no such incident as was originally alleged, had happened. He lastly expressed his desire that he wants to put an end to the proceedings of this case and that he has no objection if the accused person is acquitted from this case.

DISCUSSION, DECISION AND REASONS THEREOF

8. After a thorough deliberation upon the evidence of the witness and all other materials available on record, it transpires that there are no incriminating materials to constitute an offence which is punishable under Sections 341, 294, 506 of the Indian Penal Code. It is also imperative to acknowledge that the prime witness, who is the informant himself, stated nothing incriminatory against the accused person. Furthermore, it is pertinent to assert that the prosecution has failed in establishing the guilt of the accused beyond reasonable doubt which is the standard of proof in every criminal proceeding. In light of the same and after careful consideration of all the materials on record, the accused person is found not guilty for the aforesaid offences. Situated thus, the accused person, Mr. Atul Gohain is hereby **acquitted** from this case and set at liberty forthwith.

9. The bail bond of the accused person and his surety shall remain in force for a period of 6 months from today in compliance with Section 437 (A), Criminal Procedure Code.

10. The Case accordingly stands disposed of.

11. The judgment is pronounced in open court in presence of the accused and his counsel and given under my hand and seal of this court on this 4th day of January, 2022 at Gohpur.

Typed by me

(Raj Sekhar Duara)
Judicial Magistrate First Class,
Gohpur, Sonitpur

SONITPUR DISTRICT JUDICIARY

APPENDIX

PROSECUTION EXHIBIT:

Exhibit 1: FIR dated 17.02.2019

DEFENCE EXHIBIT: NONE

PROSECUTION WITNESS:

P.W.1- Mr. Binod Barua

DEFENCE WITNESS: NONE

(Raj Sekhar Duara)
Judicial Magistrate First Class,
Gohpur, Sonitpur