

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

G.R 3001/16

U/S 294/326/506 IPC

State of Assam

Vs

Md Giabur Rahman**Accused**

Present : Sri. Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate

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

For the accused : Sri Janmoni Borah, Ld Defence Counsel

Evidence recorded on : 04-01-2022

Arguments heard on : 04-01-2022

Judgement delivered on : 04-01-2022

J U D G M E N T

1. The prosecution story emanates from the FIR lodged by Mustt Sajina Khaton stating inter alia that on 10-9-16 at about 7 am, a quarrel took place between her husband and younger brother and when she came to settle the matter, accused Md Jiabur Rahman assaulted her with an axe on her waist and leg. The accused also threatened her and her husband with dire consequences. Hence this case.

2. On receipt of ejahar, Tezpur PS case no. 1612/16 U/S 294/326/506 IPC was registered and ASI Bhaben Brahma was entrusted with the investigation of this case. After completion of investigation, the police filed charge-sheet against the accused Md Jiabur Rahman u/s- 294/326/506 IPC. 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- 294/326/506 IPC, charge under said section of law was framed, read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

3. The prosecution examined only 2 (two) witnesses. Considering the evidence of PW1, PW2 and on the oral prayer of prosecution and defence sides, further prosecution evidence and SD are dispensed with.

Point for determination:-

- i. Whether the accused 10-9-16 at about 7 am uttered obscene words at the informant and her husband and thereby committed an offence punishable under Section 294 of IPC?
- ii. Whether the accused on the same day and time committed criminal intimidation by threatening the informant and her husband and thereby committed an offence punishable under Section 506 of IPC?
- iii. Whether the accused on the same day and time, voluntarily caused grievous hurt to the informant by means of a sharp weapon and thereby committed an offence punishable under Section 326 of IPC?

Discussion of evidence

4. PW1, Mustt Sajina Khatoon is the informant of this case. Ext.1 is the ejahar lodged by her and Ext.1(1) is her signature thereon. Accused Md Jiabur Rahman is her brother-in-law. On 12-9-16 there took place a heated argument between her and the accused person over a trivial matter. Then out of misunderstanding and being incited by others, she lodged this case. She has no grievance against the accused and she has no objection if the accused is acquitted.

5. PW2 Md Kofiluddin is the husband of the informant and he in his evidence has stated that on 12-9-16 there took place a heated argument between his wife and the accused person over a trivial matter. Then out of misunderstanding and being incited by others, his wife lodged this case. He has no grievance against the accused and he has no objection if the accused is acquitted.

DECISION AND REASONS THEREOF

6. I have heard the prosecution and defence side.

7. Let me now analyse how far the prosecution has been able to prove its case against the accused person.

8. 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. Thus, PW1/informant and PW2 have 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.

9. 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 Md Giabur Rahman is not guilty of the offence U/S 294/326/506 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 (04-01-2022).

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

11. Judgement is delivered and pronounced in open court.

12. Given under my hand and seal of this court on this 4th day of January, 2022.

Sri Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur

APPENDIX

Prosecution witnesses:-

PW1 Mustt Sajina Khatoon

PW2 PW2 Md Kofiluddin

Defence witness:

Ejaha as Ext.1

Documents exhibited by the prosecution :-

Nil

Documents exhibited by the defence -: Nil

Sri Angshuman Bhattacharjee
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur