

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS AT
GOHPUR, SONITPUR**

G. R. Case No. 102 of 2017

U/S: 294/323/324/506/34 of IPC

The state of Assam

-Versus-

Raju Khan
Zakir Hussain
Dudumoni Begum
Jusna Begum Accused persons

PRESENT : DigantaGoswami, A.J.S.
Judicial Magistrate 1st Class, Gohpur

Date of framing of charge : 17.05.2018
Date of recording of evidence : 11.06.2018 & 07.07.2018
Date of argument : 09.07.2018
Date of judgment : 09.07.2018
Ld. advocate for the state : The A.P.P.
Ld. advocate for the defence : Sri A. K. Das

JUDGMENT

1. The case of the prosecution is that informant Mustt. Laila Begum, wife of Md. Azad Khan, Village– Chengaigaon lodged an FIR in the Gohpur Police Station on 21.04.2017 alleging that the accused persons namely Raju Khan, Zakir Hussain, Dudumoni Begum and Jusna Begum on 20.04.2017 at about 8-30 p.m. scolded her and her husband Azad Khan with indecent languages, caused grievous hurt

to her husband with sharp weapon. As she tried to save her husband, the accused persons beat her also and took away Rs. 50,000/- from her husband and also criminally intimidated them. She, therefore, prayed for doing an investigation into the matter and taking necessary steps for punishing the culprits accordingly.

2. The FIR was received and registered vide Gohpur Police Station Case No. 88/2017, u/s 294/326/323/506/34 of IPC, dated 22.04.2017. Asst. Sub-inspector Sri Purneswar Hazarika took up the task of preliminary investigation and Sub-Inspector Alimuddin Ahmed was entrusted with completing the investigation of the case.
3. The police after investigation submitted charge-sheet against the accused persons namely Raju Khan, Zakir Hussain, Dudumoni Begum and Jusna Begum u/s 294/323/325/506/34 of IPC. On receipt of summons, the accused persons appeared before the court and they were released on bail. Copies were served to them. After perusal of the case record, charges u/s 294/323/324/506/34 of IPC were framed against them, the particulars of offence were read over and explained, to which they pleaded not guilty and claimed to be tried.
4. Evidence of the witnesses were recorded and finding no incriminating materials against the accused persons, recording of statement of the accused under section 313 Cr.PC was dispensed with. The accused declined to adduce defence evidence. I have heard the learned A.P.P. and the learned counsel for the defence. I have also carefully gone through all the evidence adduced and meticulously scrutinised the entire case record.

5. POINTS FOR DETERMINATION

- (i) Whether the accused persons namely Raju Khan, Zakir Hussain, Dudumoni Begum and Jusna Begum on 20.04.2017 at about 8:30 p.m. at the home of the informant at Chengaigaon, in furtherance of their common intention, scolded the informant and her husband using obscene languages at the house of the informant Musst. Laila Begum and it caused annoyance to others, thereby committing an offence punishable under section 294/34 of the IPC?

- (ii) Whether the accused persons on the same day and at same time and place, in furtherance of their common intention, voluntarily caused hurt to the informant Musst. Laila Begum and her husband Md. Azad Khan, thereby committing an offence punishable under section 323/34 of the IPC?
- (iii) Whether the accused persons on the same day and at same time and place, in furtherance of their common intention, voluntarily caused hurt to the husband of the informant by dangerous weapons or means, thereby committing an offence under section 324/34 of the IPC?
- (iv) Whether the accused persons on the same day and at same time and place, in furtherance of their common intention, criminally intimidated the informant and her husband, thereby committing an offence under section 506/34 of the IPC?

DISCUSSION, DECISION AND REASONS THEREOF

To decide on the given points, the prosecution evidence is hereby discussed as follows:

6. P.W. 1 Smt. Sarumai Baruah stated in her deposition that she knew all the accused persons and the informant since they were her neighbours. She didn't know anything about the alleged incident. Police didn't interrogate her in this connection.
7. Her cross-examination was declined.
8. P.W. 2 Musst. Laila Begum, the informant stated that the incident occurred at about 8 p.m. on 20th day of some month in the year 2017. She arrived from Guwahati that day. After visiting the doctor, she went home and slept. Then the accused persons had an argument with her husband followed by a scuffle. There was some form of pushing and pulling by both the parties. Her husband got some minor injuries while falling down. Later, they settled the matter. Now, there is no enmity between them. They have been living peacefully. Ext. 1 was the FIR that she lodged and Ext. 1(1) her signature.
9. In cross-examination, she stated that her husband Azad Khan and accused Raju Khan are brothers. The accused persons lodged a case against them also, which they also agreed to withdraw. She would have no objection if the accused persons are acquitted.

10. When we look at the deposition of the prosecution witnesses, we find that there was an altercation and a scuffle between the accused persons with the husband of the informant. The argument turned into a heated one as no side relented with their approaches. Then some pushing and pulling of each other ensued among them which resulted in falling of Azad Khan, the husband of the informant. As he fell down slipping, he got some minor injuries. All the persons were from the same family. Previously, they had no enmity among themselves. Some sudden emotions controlled and dictated the brief event. The tiff was so insignificant that no neighbour even came to know that there was some quarrels in their houses. Azad Khan and accused Raju Khan were own brothers. Following the event, the wife of Azad Khan lodged the *ejahar* in the police station not thinking much about its consequences. The accused persons also lodged an *ejahar* against the informant and her husband in the police station. Later, both the parties realised their mistakes and settled the matter mutually. Now, they are living together and they have no animosity. There are no ingredients of any offence under any section of the Indian Penal Code against the accused persons. This type of quarrels are common among the family members in the village areas. Enlarging those issues will further aggravate the situations only. The positive thing is that both the parties have resolved to sort out the differences and live with co-operation. The informant went on to add that she would have no objection if the accused is acquitted of the case.

ORDER

In view of the discussion made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused persons namely Raju Khan, Zakir Hussain, Dudumoni Begum and Jusna Begum committed the offence under section 294/323/324/506/34 of the Indian Penal Code as alleged.

As such the accused persons are acquitted from the charges under section 294/323/324/506/34 of the IPC on benefit of doubt and they are set at liberty forthwith.

The bail bond of the accused persons shall remain valid for six months from today as per section 437 of the Cr.PC.

Judgment is pronounced in the open court. The case is disposed of.

The judgment is given under my hand and seal of this court on the 9th day of July, 2018.

DIGANTA GOSWAMI
JMFC, GOHPUR

ANNEXURE

Witnesses for the Prosecution:

PW 1 Smt. Sarumai Baruah
PW 2 Musstt. Laila Begum

Witness For The Defence: NIL

Exhibits :

Ext. 1 - F.I.R.

DIGANTA GOSWAMI
JMFC, GOHPUR