

DISTRICT: SONITPUR

IN THE COURT OF JUDICIAL MAGISTRATE 1ST
CLASS, TEZPUR, SONITPUR

Present: Smt. Priyanka Saikia, AJS
Judicial Magistrate 1st Class Sonitpur, at Tezpur

P.R.CASE NO. 586/2018
(G.R. Case No. 691/2018)
under Section 294, 352, 354, 506 IPC

STATE OF ASSAM

-VERSUS-

SRI DIPAK JAISOWAL

BINDESWAR JAISOWAL

VILL: RANGAPARA WARD NO.3,

P.S.- RANGAPARA , DIST- SONITPUR

.....ACCUSED PERSON

Date of evidence : 10.01.2022

Date of argument : 10.01.2022

Date of judgment : 10.01.2022

Advocate appeared for the State: Smt. Bandana Boro, Ld.

APP

Advocate appeared for the accused person: I. Ansari

JUDGMENT

1. The informant, Smti Anita Kaur had lodged the ejahar in this case on 19-02-2018 alleging that on same day at about 02.00 P.M. when wind was blowing one Mannequin Statue of accused Sri Dipak Jaisowal was fall down to the shop of the informant. Then, the accused person started to scatter the items of the informant's shop and he slapped on her face and throw all clothes to the ground. From 2/3 days ago he threatened me to dire consequence. Hence, this case.

2. Upon receipt of the ejahar, the police registered Rangapara Police Station case no: 0026/2018 under Section 294, 427, 352, 354, 506 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against the accused Sri Dipak Jaisowal under Sections 294, 352, 354, 506 of IPC.

3. The accused person entered trial and after furnishing the accused person with the copies of the relevant documents in compliance with Section 207 of CrPC and upon finding sufficient materials against the accused person, charge under Sections 294, 352, 354, 506 of IPC was framed and was explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant, Smti Anita Kaur as PW-1 and also exhibited the ejahar. The statement of the accused person under Section 313 of CrPC was dispensed with due to the lack of incriminating materials

against him. Defence declined to adduce evidence. I have heard the arguments for both sides.

5. Upon hearing and on perusal of the case record I have framed the following points for determination-

(i) Whether, on 19-02-2018 at about 02.00 P.M. the accused person uttered obscene act and word to the informant and thereby committed an offence punishable under Sections 294 of Indian Penal Code?

(ii) Whether, on 19-02-2018 at about 02.00 P.M. the accused person has assaulted and used criminal force to the informant and thereby committed an offence punishable under Sections 352 of Indian Penal Code?

(iii) Whether, on 19-02-2018 at about 02.00 P.M. the accused person has assaulted or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty to the informant and thereby committed an offence punishable under Sections 352 of Indian Penal Code?

(iv) Whether, on 19-02-2018 at about 02.00 P.M. the accused person threatened the informant and thereby committed an offence punishable under Sections 506 of Indian Penal Code?

DISCUSSION, REASONS AND DECISION THEREOF:

6. In the course of the evidence adduced by the prosecution, it emerged that the informant, Smti Anita Kaur, who was examined as PW-1 has stated that the instant case was filed due to misunderstanding. They have quarrelled in respect of their shop. She further stated that

now the matter has been amicably settled between them out of court and she did not want to proceed with the case and if the accused person is acquitted from the case she does not have any objection. PW-1 has proved her Ejahar as Ext-1 and statement under Sec.164 as Ext-2 and Ext. 1(1) and Ext2(2) are her signature therein.

7. Since the informant who launched the prosecution of the accused persons has not incriminated the accused person, the case of the prosecution has fallen flat on its face. Hence, the point for determination is decided in the negative.

ORDER

8. Situated thus, the accused person, accused Sri Dipak Jaisowal are acquitted of the offence Sections under Sections 294, 352, 354, 506 of IPC and set at liberty forthwith.

9. The bail bond of the accused persons will remain in force for 6 (six) months from today by virtue of Sec. 437A Cr.P.C.

Given under my hand and seal of this court on this 10th day of January, 2022 at Sonitpur, Assam.

Priyanka Saikia, AJS
Judicial Magistrate 1st Class
Sonitpur, Tezpur

APPENDIX

1. Witnesses for Prosecution

PW-1: Smti Anita Kaur

2. Prosecution Exhibit

Exhibit 1: Ejahar

Exhibit 2: Statement under Sec.164

Priyanka Saikia, AJS
Judicial Magistrate 1st Class
Sonitpur, Tezpur