

IN THE COURT OF SUB DIVISIONAL JUDICIAL
MAGISTRATE (M),GOHPUR.

P.R.C - 148/2020

U/S 294/506 I.P.C

State

Vs

Madhab Borah,

S/o. Lt. Kamal Borah.

Vill.: 2 No. Naharani, P.S.: Gohpur,

Dist. Biswanath, Assam.

..... Accused.

Present:

A. A. Choudhury, S.D.J.M (M), Gohpur.

For prosecution:

Ms. Santana Bhuyan, Id. A.P.P

For defence: Mr. Nabajyoti Neog, Ld. Advocate.

Date of evidence: 04.01.2022.

Argument heard on: 04.01.2022.

Judgment delivered on: 05.12.2021.

JUDGMENT

(1) The case of the prosecution in a nutshell is that the informant and co-informant namely Sri Dandadhar Sut and Smti. Dipamoni Sut respectively are spouses who have lodged an ejahar on 27.01.2020 against accused Sri Madhab Borah, nephew of Dandadhar Sut, inter-alia alleging that on 23.02.20, the accused person has felled few valuable trees from the land of informants and thus stolen the same. The value of those felled trees would be around Rs. 2,00,000/-. It is further alleged that the accused person threatened the informants with dire consequences. Hence, the ejahar/FIR.

(2) The ejahar was registered as a case vide Gohpur P.S. Case No. 42/20, U/S 379/506/34 I.P.C. on 27.01.20 and on

completion of the investigation, Charge-Sheet was submitted under section 294/506 IPC against the accused person namely Sri Madhab Borah.

- (3) Accordingly, cognizance was taken and copies were served to the accused person and when particulars of offence under section 294/506 IPC was read over and explained to the accused person, the accused pleaded not guilty and claimed to be tried.
- (4) During the trial, the prosecution side has examined 02 Prosecution witnesses, being the informant and co-informant, whereas, the case of accused is that of denial. Upon considering the nature of evidence of the informant and also considering other attending circumstances; as no incriminating materials are found against the accused person; further evidence was closed and statement-in-defence U/S 313 Cr.P.C of accused person was also dispensed with for the said reasons.

(5) **Point for determination:**

(i). Whether the accused person has annoyed the informants by doing any obscene act in public place or by uttering obscene words in public place?

(ii). Whether the accused person has committed criminal intimidation by threatening the informants?

Decision thereon and Reasons for the decision:

(6). In evidence, the informant as PW 1 namely Sri Dandadhar Sut deposed that he is the informant of this case and knows the accused person who is his nephew. About 02 years ago, he has lodged the ejahar against the accused person due to some minor dispute and mis-understanding and on being instigated by outsiders. PW 1 also deposed that now, due to intervention of family members and to restore good-will between them, they all have mutually settled the dispute and amicably resolved and presently are in good and peaceful terms. PW 1 does not have any grievance against the accused

person and does not want to proceed with the case, as the dispute has been mutually settled between them.

(7) In cross examination, PW 1 stated that he does not know the contents of the ejahar. Accused person has neither uttered obscene words nor threatened him and his wife. PW 1 also stated that he has no objection if the accused person is acquitted in this case as case has been compromised amicably between them. PW 1 does not want to proceed with the case as case has been mutually settled between them. PW 1 lodged the ejahar due to some minor domestic dispute only.

(8). In evidence, the co-informant as PW 2 namely Smti Dipamoni Sut deposed that she is the co-informant of this case. About 02 years ago, PW 2 alongwith her husband lodged the ejahar against the accused person due to some minor dispute and mis-understanding and on being instigated by outsiders. PW 2 also deposed that now, due to intervention of family members and to restore good-will between them, they all have mutually settled the dispute and amicably resolved and presently are in good and peaceful terms. PW 2 does not have any grievance

against the accused person and does not want to proceed with the case as the dispute has been mutually settled between them.

(9) In cross examination, PW 2 stated that she does not know the contents of the ejahar. Accused person has neither uttered obscene words nor threatened her and her husband. PW 1 also stated that she has no objection if the accused person is acquitted in this case as case has been compromised amicably between them. PW 1 does not want to proceed with the case as case has been mutually settled between them. PW 1 lodged the ejahar due to some minor domestic dispute only.

(10). Upon considering the evidence and materials on record, it is seen that a misunderstanding occurred between the parties, who are relatives. Both the informants in their respective cross examination stated that the accused person has neither uttered obscene words nor threatened them. The informants do not know the contents of the ejahar. Both witnesses stated that they do not want to proceed with the case as case has been mutually settled and amicably compromised between

them. The witnesses further stated in their cross examination that they have lodged the ejahar due to a minor dispute only and presently both parties are in good and peaceful terms. The witnesses have also stated in their evidence that they do not have any grievance against the accused person and also do not want to proceed with the case as the dispute has been amicably settled between them. Also seen the joint compromise petition filed by both the parties vide petition no. 26/22 dated 04.01.22. Sec 294 IPC is non-compoundable in nature and as such cannot be compounded on this count.

(11) Therefore, considering the nature, gravity and circumstance of the allegation and the evidence and other materials-on-record and upon hearing both sides, as no incriminating materials are found against the accused person; both the aforesaid issues are decided in the negative and in favour of the accused person.

(12) The following Order is passed in this case.

ORDER

(13) The accused person namely Sri Madhab Borah stands acquitted in this case as prosecution side failed to prove the guilt of the accused person.

(14) The accused person be set at liberty forthwith, if in custody and not wanted in any other case.

(15) Judgment is delivered in Open Court in presence of the accused person.

(16) Bail Bond to be discharged in accordance with law, after a period of 06 (six) months.

(17) Given under my hand and seal of this Court on this the 05th day of January, 2022.

Accordingly case disposed off.

A. A. Choudhury,
S.D.J.M (M), Gohpur.

APPENDIX

Prosecution Witness:

PW 1 – Sri Dandadhar Sut.

PW 2 – Smti Dipamoni Sut.

Prosecution Exhibits: NIL

Exhibit 1-Ejahaar.

Defence Witness: NIL

Defence Exhibits: NIL

Court Witness: NIL

A. A. Choudhury,
S.D.J.M (M), Gohpur.

05.01.22:

Accused person is present in Court today.

Judgment and Order is pronounced in open Court today.

The following Order is passed in this case.

Keep the original copy of Judgment and Order alongwith the C/R.

ORDER

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Sonitpur Judiciary