

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.256/2017

State

Vs.

**Md. Aktar Ali,
Son of Late Abdul Rahman,
Resident of village- Ghunusa Habi,
P.S.- Jariroad,
District- Morigaon, Assam**

Present: Sri N.K. Das, AJS
Chief Judicial Magistrate, Morigaon

For the state: Mrs. A. Kakati, Asstt.P.P.

For the defense: Mr. P.K. Saha, Advocate

Charge framed: 448/294/323/427/506(II) IPC

Evidence recorded on: 27-5-2019 and 21-11-2019

Argument heard on: 21-11-2019

Judgment delivered on: 21-11-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt. Khursida Begum lodged an ejahar in the Jagiroad police station against the accused person namely Md. Aktar Ali alleging therein that on 27-1-2017 at about 7.00 p.m., the aforementioned accused, by taking advantage of absence of any male member in the house of the informant, out of previous grudge, illegally entered into her house, hurled obscene abuses at her and inflicted fist blows, kicks etc. on her as well as on her sister-in-law namely Musstt. Husnara Khatun and also mercilessly harassed them. As a result of the attack, the informant and Musstt. Husnara Khatun sustained severe injuries on chest and head. The accused by entering into the house ransacked and damaged various household articles also and threatened to kill them.

2. The said ejahar was received in the Jagiroad police station on 28-1-2017 and a Jagiroad police station case No.36/2017 under sections 447/448/294/325/427/506 IPC was registered and one sub inspector of police Sri Kamala Kanta Sarma was assigned to investigate the case by the Officer-in-Charge of the said police station. On completion of investigation police submitted charge sheet against the accused Md. Aktar Ali under sections 448/294/323/427/506 of IPC.

3. On appearance before court copies of all relevant documents were furnished to the accused persons under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offences under sections 448/294/323/427/506(II) of IPC being found against the above mentioned accused person, formal charge under sections 448/294/323/427/506(II) of IPC was framed, which was read over and explained to the accused Md. Aktar Ali, to which he pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 2 (two) witnesses i.e. Musstt Khursida Begum, as PW-1, who is the informant as well as alleged victim and another witness namely Musstt. Husnara Begum, who is the sister-in-law of the informant and who is also another victim of the case, as PW-2. The ejahar was exhibited as exhibit-1 and the signature of Musstt Khursida Begum was proved as exhibit 1(1). Examination of the accused person under section 313 CrPC was dispensed with for lack incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the argument of Mrs. Alakananda Kakati, learned APP as well as the argument of Mr. Prashanna Kr. Saha, learned defence counsel, perused the case record and considered the same. The points for determination are as under:

- i. Whether the accused person on or about 27.1.2017 at about 7.00 p.m., at village Tarangapar, under Jagiroad police station of Morigaon district, committed criminal trespass by entering into or remaining in the house of Musstt Khursida Begum, which was in possession of Musstt. Khursida Begum and Musstt. Hasnara Khatun and which was used as a human dwelling, with intent to commit an offence or to intimidate, insult or annoy them and thereby committed the offence punishable under section 448 of IPC?

- ii. Whether the accused person on or about the same date, time and place, uttered obscene words in a public place to the annoyance of Musstt. Khursida Begum and Musstt. Hasnara Khatun and thereby committed an offence punishable under section 294 of IPC?
- iii. Whether the accused person on or about the same date, time and place, voluntarily caused hurt to Musstt. Khursida Begum and Musstt. Hasnara Khatun and thereby committed an offence punishable under section 323 of IPC?
- iv. Whether the accused person on or about the same date, time and place, committed mischief by causing loss (or damage) to the amount of more than Rs.50/- and thereby committed an offence punishable under section 427 of IPC?
- v. Whether the accused person on or about the same date, time and place, threatened to kill Musstt. Khursida Begum and Musstt. Hasnara Khatun, with intent to cause alarm to them and thereby committed an offence punishable under section 506(II) of IPC?

Discussion of evidence, decision and reasons therefor:

6. The witnesses, who are the alleged victims, in their depositions, have not supported their own case and did not implicate the accused with the alleged offence. The witnesses deposed that the matter has already been amicably settled amongst them at the intervention of their family members. According to both the witnesses, the case was filed due to misunderstanding and as such, they no longer want to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of the witnesses against the accused person to implicate him with the alleged offences. The key witnesses, who are the alleged victims of the case, did not implicate the accused person with the alleged offences. In view of the deposition of the witnesses, the prosecution side did not proceed further to summon and examine the remaining witnesses as their evidence is not likely to improve the prosecution case and closed the prosecution evidence and perhaps rightly so.

8. For the aforesaid reasons and discussion the points for determination are answered in the negative.

9. The prosecution has failed to prove the case against the accused person. As such, the accused person is found not guilty and accordingly acquitted of offences under sections 448/294/323/427/506(II) IPC alleged against him. He be set at liberty forthwith. His bail bond shall remain in force for six months from today in view of section 437A of CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 21st day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1 (1): Signature of Musstt. Khursida Begum

(B) DEFENCE EXHIBITS:

None

(C) EXHIBITS PRODUCED BY WITNESSES:

None

(D) COURT EXHIBITS:

None

(E) PROSECUTION WITNESSES:

PW-1: Musstt. Khursida Begum

PW-2: Musstt. Husnara Begum

(F) DEFENCE WITNESSES:

None

(G) COURT WITNESSES:

None

Chief Judicial Magistrate, Morigaon