

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE,
MORIGAON

G. R. Case No: 392/15

Under section 341/323/294/34 of Indian Penal Code

State

Vs

1. Musstt. Rebina Begum

D/o Md. Abdul Mutaleb, R/o No.1 Batalimari, P.S. Bhuragaon, Morigaon, Assam.

2. Musstt. Sofia Begum

W/o Md. Abdul Mutaleb, R/o No.1 Batalimari, P.S. Bhuragaon, Morigaon, Assam.

.....Accused persons

Present: Lohit Kumar Sarmah, SDJM(S), Morigaon

Advocates appeared

For the State: Smti. Banti Devi

For the accused persons: Mr. K. Ali

Evidence recorded on: 29.12.2017, 21.3.2018 and 2.4.2019,

Argument heard on: 15.11.2019

Judgment delivered on: 15.11.2019

JUDGMENT

1. The informant Musstt. Alekjan Bibi lodged an ejahar before the Bhuragaon Police Station on 25.2.2015 stating inter alia that on 24.2.2015 at about 5 pm while the daughter of the informant namely Rupsana Khatun was studying in her room then the accused Rebina Begum played music in her mobile in high volume to disturb Rupsana in her studies. When Rupsana obstructed her not to do so then the accused abused and threatened her. Soon after that at around 5.15 pm when Rupsana was returning home by the house of accused then they restrained her there, abused her and beat her with blows of punches, elbows and slaps. They

also held the hair of Rupsana and dragged her on the ground causing her internal injuries. Hence the informant had filed this case.

2. The ejahar was received and registered as Bhuragaon PS case No. 30/15 under section 294/341/323/325/34 on the Indian Penal Code.
3. The Investigating Officer after due investigation of the case submitted charge sheet under section 341/294/323/34 of the Indian Penal Code against the accused persons.
4. The accused persons appeared and entered trial. Copies of the relevant documents were furnished to the accused persons.
5. On perusal of the case record sufficient ground under section 341/323/294/34 of Indian Penal Code were found against the accused persons and accordingly the particulars of offences under the above sections were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. During trial it has been informed that the accused Sarbanu Nessa was died and the co-accused produced one original death certificate of the accused and accordingly the case is declared abated against the accused Sarbanu Nessa.
6. The prosecution has examined four witnesses including the informant and the victim. The statements of the accused persons Sofia Begum and Rebina Begum under section 313 CrPC were recorded. The defense side adduced no evidence and pleaded for total denial.

POINTS FOR DETERMINATION:

- i) Whether the accused persons on 24.2.2015 at about 5 pm and 5.15 pm, in furtherance of their common intention, wrongfully restrained the informant's daughter Rupsana Begum by voluntarily obstructing her so as to prevent her from proceeding in any direction in which she had a right to proceed and thereby committed an offence punishable under Sec. 341/34 IPC?
- ii) Whether the accused persons on 24.2.2015 at about 5 pm and 5.15 pm, in furtherance of their common intention, voluntarily caused hurt to Rupsana Begum and thereby committed an offence punishable under Sec. 323/34 IPC?
- iii) Whether the accused persons on 24.2.2015 at about 5 pm and 5.15 pm, in furtherance of their common intention, uttered obscene words in or near a public place to the annoyance of others, and thereby committed an offence punishable under Sec. 294/34 IPC?

7. I have heard the oral arguments put forward by both the Counsels. I have also gone through the entire evidence available on record. My discussion and reasons for the decision is discussed below.

DISCUSSION, DECISION AND REASONS THEREOF:

8. CW1, Musstt. Ruksana Begum who is the victim deposed that the informant is her mother and the accused persons are her neighbors. The incident took place in the year 2015 at around 5 pm when she was not married. On the day of incident, she was at her parental house and metric exam was scheduled on that day. On the day of incident, Rebina was playing songs in her mobile while CW1 was studying then CW1 asked Rebina not to disturb and stop the music. Then Rebina told CW1 that "was that CW1's father land" and abused her. After 15 minutes when CW1 went to buy pen nearby Rebina's house then she held her hair. Then Sofia Khatun and Sorban Begum came there and started beating CW1. Rejia Khatun and Ajgar Ali came and saved CW1. CW1's mother first took Ruksana to the Bhuragaon Civil hospital and then to the police station. The police visited the place of occurrence and took her statements in the police station and at CW1 house too. Still, the accused persons abuse her. In cross-examination CW1 stated that she does not remember the date of occurrence. There is Kulsum's house in between the houses of CW1 and Rebina. Rebina came near the Ruksana's room and played music there. At the time of incident CW1 was alone at home. The shop was after Rebina's house. No other person was present at the time of incident. At the time of incident there were only three households there but now many households have settled. On hearing CW1's cry, Rejia Khatun reached the place of occurrence. Rejia Khatun informed CW1's mother who came and took CW1 to the hospital. This case was filed the next day of the incident. At present, CW1 stays with her husband nearby her parental house.
9. PW1 Musstt. Alekjan Bibi who is the informant deposed that the accused persons are known to her. Around three years prior to her deposition at around 5 pm when her daughter Ruksana was preparing for her metric exam then Rebina came to her house and started playing loud music; when Ruksana asked Rebina to play music at a distance then she argued with Ruksana and left. After one hour when PW1's elder daughter Mukreja Khatun and Ruksana went to a shop to bring a pen then on reaching near the house of accused they caused injuries to

Mukreja by beating her. The nearby kids informed PW1 about the incident. Her daughters reached home themselves. On the same day Mukreja was treated by a doctor. Her daughter could not sit in two exams. In cross-examination PW1 stated that Rebina and her house are adjacent. She does not remember the date of occurrence and had not seen the incident herself. The rest is just a suggestion to which she denied.

10. PW2 Musstt. Rejia Begum who deposed that the informant and accused persons are known to her. In the year 2015 in the evening, when the daughter of the informant namely Ruksana was preparing for her metric exam then Rebina came to her house and started playing loud music; when Ruksana asked Rebina to play music at a low volume then she argued with Ruksana. When Ruksana went to a shop to bring a pen then on reaching near the house of accused they caused injuries to her by beating her. PW2 brought her and pour water on her head. The next day her metric exam went bad. In cross-examination PW2 stated that she does not remember the date of occurrence and the informant is her elder sister. The incident happened at the back of PW2's house when her elder sister was not at house. Soon after the quarrel, fight between the parties started. There were many persons present at the place of occurrence but could not recall their names. PW2 reached the place of occurrence while the verbal altercation was ongoing. Ruksana was beaten by hand not by lathi. The rest is just a suggestion to which PW2 denied.

11. PW3 Md. Ajgar Ali who deposed that the informant is his mother and accused persons are his neighbors. The incident took place around 4 years prior to his deposition at around 10 am nearby the house of accused persons. At the time of incident, PW3 was at his father-in-law's house in Falihamari. At the time of incident, while PW3 was coming home from Falihamari then he saw that the accused persons were beating his sister Ruksana holding her hair. After that Ruksana returned to her house. The police came after the case was filed by his mother. The police took his statement. In cross-examination PW3 the house of accused persons is about 1 km away from the house of PW3's father-in-law. He does not remember the date of occurrence. Her sister's house is about 50 meters away from the house of accused persons. He does not know the reason for the clash. He does not even know why his sister Ruksana went near the house of accused persons. PW3 did not see other people at the place of occurrence. He is

not aware of his sister's treatment. The rest is just a suggestion to which PW3 denied.

12. From the deposition of CW1, PW1, PW2 and PW3 it appears that the victim was restrained and assaulted by the accused persons. But the informant vide petition No. 3864/19 prayed for disposal of the case as they had already compromised the dispute and living peacefully. The victim Ruksana Begum also vide petition No. 3903/19 stated that they had compromised the case and have been living peacefully. Thus the victim and the complainant are not willing to proceed with the case. As such the prosecution had prayed for closure of its evidence. Thus the informant, victim and the witnesses did not implicate the accused persons. The prosecution is failed to prove the offences against the accused persons beyond reasonable doubt.

13. Therefore all the points for determination are decided in negative and in favour of the accused persons.

14. In view of the above it is held that the prosecution has failed to establish the charges under section 341/323/294/34 of the Indian Penal Code against the accused persons Sofia Begum and Rebina Begum. Accordingly the accused persons namely Rebina Begum and Sofia Begum are acquitted of the alleged offences leveled against them and set at liberty.

15. Bail bond and affidavits furnished by the bailor is extended for a period of six months from today.

Given under my hand and seal of this Court on the 15th day of November, 2019 at Morigaon.

Lohit Kumar Sarmah
SDJM(S), Morigaon

APPENDIX

Prosecution witnesses:

CW1- Musstt. Ruksana Begum (victim)

PW1- Musstt. Alekjan Bibi (Informant)

PW2- Musstt. Rejia Khatun

PW3- Md. Ajgar Ali

Exhibits for the prosecution:

Nil

Defence witness :

Nil

Exhibits for defence:

Nil

Lohit Kumar Sarmah

SDJM(S), Morigaon