

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIGAON

GR 798 of 2017

U/S 294/323 of IPC, r/w 34 of IPC

State

Vs

- 1. Mukti Medhi**
- 2. Dipa Medhi @ Dipamoni Medhi**
- 3. Manash Medhi**

.....Accused Persons

Present: A. Shravan, A.J.S.

Evidence recorded on : 14-11-2019

Arguments heard on : 14-11-2019

Judgment delivered on : 14-11-2019

For the Prosecution : Assistant Public Prosecutor, L. Gohain.

For the Defence : Learned Counsel, Mr. Dilip Chandra Das.

Judgment

1. The case of the prosecution in brief is that the informant, Purnima Deka lodged an *ejahar* on 26.03.2017 before Morigaon P.S. stating *inter alia* that on 25.03.2017 at about 7.30 p.m. the accused persons broke the house of the informant and her husband and drove them out of their house. It is further stated the accused persons also physically assaulted the husband of the informant. Hence the case.

2. On receipt of the *ejahar*, the Officer in Charge of Morigaon Police Station registered Morigaon P.S. Case No- 112/2017 under sections 294/354/323/336/427/34 of Indian Penal Code. The police after investigation submitted charge sheet against the accused persons, Mukti Medhi, Dipa Medhi @ Dipamoni Medhi and Manash Medhi under sections 294/323/34 of I.P.C.

3. On appearance of the accused persons, copies were furnished to them under section 207 of Cr.P.C. and after hearing and perusal and on finding

prima facie materials u/s 294/323, r/w section 34 of I.P.C, against all the three accused persons, the offences are read over and explained to the accused persons to which they pleaded not guilty and claim to be tried.

4. The prosecution side to prove its case examined the informant, Purnima Deka as PW-1 and Dilip Deka, the husband of the informant as PW-2 and exhibited the *ejahar* as Ext-1. The statement of the accused persons under section 313 of Cr.P.C. was not recorded due to the absence of incriminating materials against them.

5. I have heard both the learned Assistant Public Prosecutor and the learned counsel for the accused persons.

6. POINTS FOR DETERMINATION:-

(i) Whether the accused persons in furtherance of common intention on 25.03.2017 at about 7.30 p.m. rebuked the informant and the victim with obscene languages and thereby committed an offence u/s 294/34 of IPC?

(ii) Whether the accused persons in furtherance of common intention on the same day, same time and at the same place voluntarily caused hurt to the informant and the victim and thereby committed an offence u/s 323/34 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:-

7. In the course of the evidence adduced by the prosecution, it emerged that the informant, Purnima Deka, who was examined as PW-1 did not support the prosecution story. She stated that there was a minor altercation between the accused persons and herself and the matter has already been reconciled with the accused persons with the intervention of the village people. Further stated that she has no objection if the accused persons are acquitted of the case. PW-2, Dilip Deka, the husband of the informant has also corroborated the same lines as was stated by PW-1.

8. From the evidence of the prosecution witnesses, it appears that the informant and the victim are not inclined to prosecute the accused persons. It has become apparent that there must have been some minor altercation between the informant, victim and the accused persons. However, the same

appears to have been resolved. Thus, from the little evidence that has been brought before this court in the form of the statements made by the victim, it is seen that no offence has been made out against the accused persons under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused persons of any offence.

ORDER

Considering the discussions made above and after all deliberations, it can be safely presumed that the prosecution has failed to drive home the guilt of the accused persons. **Hence, the accused persons, Mukti Medhi, Dipa Medhi @ Dipamoni Medhi and Manash Medhi are acquitted of the offences under sections, 294/323, r/w section 34 of the Indian Penal Code and set them at liberty forthwith.**

Their Bail bonds are extended for a period of 6 (Six) months from today as per Section 437 A, Criminal Procedure Code.

Given in my hand and under the seal of this court on this 14th day of November, 2019.

Typed by Me:

Ayushree Shravan
Judicial Magistrate First Class, Morigaon

APPENDIX

Prosecution Witnesses:

PW-1: Purnima Deka

PW-2: Dilip Deka

Defence Witnesses:

None.

Prosecution Exhibits:

Ext-1: *ejahar*.

Defence Exhibits:

None.

Judicial Magistrate First Class, Morigaon