

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIGAON

GR 883 of 2018

U/S 294/506/323 of IPC

State

Vs

Usharani Devi

.....Accused Person

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

Evidence recorded on : 13-11-2019
Arguments heard on : 13-11-2019
Judgment delivered on : 13-11-2019

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

For the Defence : Learned Counsel, Mr. U.C. Roy

Judgment

1. The case of the prosecution in brief is that the informant, Fuleswari Devi lodged an *ejahar* on 09.04.2018 before Mikirbheta P.S. stating *inter alia* that on 08.04.2018 at about 6 p.m. the accused persons called over some people over phone who wrongfully entered into their house and physically assaulted her son. When the informant resisted the accused, she was also beaten up and pushed away, as a result of which she hit the bed and got injured. Upon hearing hue and cry, the neighbouring people arrived and rescued the informant and her son. Hence the case.

2. On receipt of the *ejahar*, the Officer in Charge of Mikirbheta Police Station registered Mikirbheta P.S. Case No-121/2018 under sections 341/448/323/307/354/34 of Indian Penal Code. The police after investigation submitted charge sheet against the accused person, Usharani Devi under sections 294/506/323 of I.P.C.

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

facie materials u/s 294/506/323 of I.P.C, against the accused person, the offences are read over and explained to the accused person to which she pleaded not guilty and claim to be tried.

4. The prosecution side to prove its case examined, Sri Dipen Kr. Nath, the son of the informant as PW-1. The statement of the accused person under section 313 of Cr.P.C. was not recorded due to the absence of incriminating materials against her.

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

6. **POINTS FOR DETERMINATION:-**

(i) Whether the accused person on 08.04.2018 at about 6 p.m. rebuked the informant and the victim with obscene languages and thereby committed an offence u/s 294 of IPC?

(ii) Whether the accused person on the same day, same time and at the same place threatened the informant and the victim with dire consequences and thereby committed an offence u/s 506 of IPC?

(iii) Whether the accused person 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 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:-

7. In the course of the evidence adduced by the prosecution, it emerged that the victim, who was examined as PW-1 did not support the prosecution story. He stated that his mother, the informant who has expired in the meantime had lodged the *ejahar* out of misunderstanding and the matter has already been reconciled with the accused person with the intervention of the village people. Further stated that he has no objection if the accused person is acquitted of the case.

8. From the evidence of the prosecution witness, it appears that the victim is not inclined to prosecute the accused person. It has become apparent that there must have been some minor altercation between the informant, victim and the accused person. 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 person under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused person 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 person. **Hence, the accused person, Usharani Devi is acquitted of the offences under sections, 294/506/323 of the Indian Penal Code and set her at liberty forthwith.**

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

Given in my hand and under the seal of this court on this 13th day of November, 2019.

Typed by Me:

Ayushree Shravan
Judicial Magistrate First Class, Morigaon

APPENDIX

Prosecution Witnesses:

PW-1: Sri Dipen Kr. Nath

Defence Witnesses:

None.

Prosecution Exhibits:

None.

Defence Exhibits:

None.

Judicial Magistrate First Class, Morigaon