

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIGAON

GR 961 of 2017

U/S 294/506 of IPC, r/w Sec. 34 of IPC

State

Vs

- 1. Abdul Mannan**
- 2. Abdul Hannan**
- 3. Shahjahan Ali**

.....Accused Persons

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

Evidence recorded on : 26-04-2019

Arguments heard on : 18-11-2019

Judgment delivered on : 18-11-2019

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

For the Defence : Learned Counsel, Md. A. U. Siddique

Judgment

1. The prosecution case was set into motion by an application filed by Md. Samsuddin before the Learned Chief Judicial Magistrate, Morigaon, u/s 156(3) Cr.P.C. for a direction to the O/C Jagiroad Police Station to register and investigate the matter and submit the report thereof in Final Form. On the strength of the order of the court, Police registered a case being Jagiroad P.S. Case No. 118/17 u/s 120(B)/406/307/509, IPC. Police treated the application filed u/s 156 (3) as an F.I.R. and started investigation. The complainant/ informant case is as follows: the complainant inter alia alleged that with the grudge of prior land dispute the accused persons on 04.04.2017 at about 9.30 a.m. physically assaulted the accused with dao, lathi etc. and also threatened to kill the informant and his son if they dared to enter into the disputed land. Hence the case.

2. The police after investigation submitted charge sheet against the accused persons, Abdul Mannan, Abdul Hannan and Md. Shahjahan Ali under sections 294/506 of I.P.C. r/w Section 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 294/506, 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, Samsuddin as PW-1 and Sahabuddin, the son 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 04.04.2017 at about 7.30 a.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 506/34 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:-

7. In the course of the evidence adduced by the prosecution, it emerged that the informant, Samsuddin, who was examined as PW-1 did not support the prosecution story. He stated that there was a minor altercation between the accused persons and himself and the matter has already been reconciled with the accused persons with the intervention of the village people. Further stated that he has no objection if the accused persons are acquitted of the case. PW-2,

Sahabuddin, the son 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 statements made by the informant and 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, Abdul Mannan, Abdul Hannan and Shahjahan Ali are acquitted of the offences under sections, 294/506, 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 18th day of November, 2019.

Typed by Me:

Ayushree Shravan
Judicial Magistrate First Class, Morigaon

APPENDIX

Prosecution Witnesses:

PW-1: Samsuddin

PW-2: Sahabuddin

Defence Witnesses:

None.

Prosecution Exhibits:

Ext-1: *ejahar*.

Defence Exhibits:

None.

Judicial Magistrate First Class, Morigaon