

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE,
MORIGAON

G. R. Case No: 1376/14

U/s 447/294/427/323 IPC

State

Vs

Md. Rajib Rasul

S/o Late Sofiqul Rahman, R/o Morimuslim Gaon, P.S. Morigaon

.....Accused person

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

Advocates appeared

For the State: Smti. Banti Devi

For the accused person: Mr. F. Ahmed

Evidence recorded on: 23.4.2019 and 6.11.2019

Argument heard on: 6.11.2019

Judgment delivered on: 6.11.2019

JUDGMENT

1. The informant Md. Abdul Jalil had lodged an ejahar before Morigaon P.S. on 8.9.2014 stating inter alia that the accused person on 3.7.2014 at about 9 pm, along with many others armed with dao cut the gate and the fencing of informant's compound and entered into the house of informant illegally. The accused threw the dao aiming to informant's body but the informant somehow saved himself. Moreover, the accused outraged the modesty of informant's wife by pulling out her cloths. The accused also abused with filthy language over phone to informant and his wife. Hence the informant had filed this case.
2. The ejahar was received and registered as Morigaon PS case No. 297/14 u/s 427/447/354/294 IPC.
3. The I/O after due investigation of the case submitted charge sheet u/s 447/323/427/294 IPC against the accused person.
4. Copy of the relevant documents were furnished to the accused person.
5. On perusal of the case record sufficient ground u/s 447/294/427/323 IPC were found against the accused person and accordingly the particulars of offences under the above sections were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

6. The prosecution has examined only two witnesses. The statement of the accused person u/s 313 CrPC was recorded. The defence side adduced no evidence and pleaded for total denial.

POINTS FOR DETERMINATION:

- i) Whether the accused person on 3.7.2014 at about 9 pm, committed criminal trespass by entering into or upon property in the possession of the informant with intent to commit an offence and thereby committed an offence punishable under Sec. 447 IPC?
 - ii) Whether the accused person on 3.7.2014 at about 9 pm, uttered obscene words in or near a public place to the annoyance of others, and thereby committed an offence punishable under Sec. 294 IPC?
 - iii) Whether the accused person on 3.7.2014 at about 9 pm, voluntarily caused hurt to the informant and his wife and thereby committed an offence punishable under Sec. 323 IPC?
 - iv) Whether the accused person on 3.7.2014 at about 9 pm, committed mischief and thereby caused loss or damage to the amount of fifty rupees or upwards to the informant's property and thereby committed an offence punishable under section 427 of the 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 are discussed below.

DISCUSSION, DECISION AND REASONS THEREOF:

8. PW1 Musstt. Yasmina Begum who is the informant's wife deposed that the accused is known to her. The incident took place in 2014 at around 9/9.30 at her house. The accused along with few others went to the house of PW1 and made noise. PW1 had amicably settled the matter with the accused in police station. At present the matter has amicably been settled between them. PW1 had taken treatment in Morigaon Civil. PW1 does not want to proceed with this case anymore. In cross-examination PW1 stated that she does not have any objection if the accused is acquitted of this case.
9. PW2 Md. Saddik Ahmed who is the informant's brother-in-law deposed that the accused is known to him. The informant for the last 3 years has not been in touch with PW2, no phone call from the informant has been received hence PW2 does not know where does the informant reside at present. at the time of incident, this matter was amicably settled in the police station and hence PW2

does not know why is he called to depose before the Court. In cross-examination PW1 stated that he does not have any objection if the accused is acquitted of this case.

10. From the deposition of PW1 it appears that there is nothing incriminating against the accused person. PW1 who is the victim herself has not supported the case. In her deposition she stated that she had amicably settled the matter between themselves; hence she does not have any objection if the accused person is acquitted of the case. Further PWs has not at all implicated the accused person u/s 447/294/427/323 IPC.

11. In view of the above I am of the opinion that the prosecution has failed to establish the charges u/s 447/294/427/323 IPC against the accused person. Accordingly the accused person is acquitted of the alleged offences leveled against them and set at liberty.

12. Bail bond and affidavit 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 6th day of November, 2019 at Morigaon.

Lohit Kumar Sarma
SDJM(S), Morigaon

APPENDIX

Prosecution witnesses:

PW1- Musstt. Yasmina Begum (victim)

PW2- Md. Saddik Ahmed

Exhibits for the prosecution:

Nil

Defence witness :

Nil

Exhibits for defence:

Nil

Lohit Kumar Sarma
SDJM(S), Morigaon