

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE,
MORIGAON

G. R. Case No: 1991/17

U/s 341/506/34 IPC

State

Vs

1. Sri Karna Deori

S/o Late Saribor Deori, R/o Barukata, P.S. Jagiroad, Morigaon

2. Sri Jingu Bordoloi

S/o Late Bihubor Bordoloi, R/o Barukata, P.S. Jagiroad, Morigaon

3. Sri Sanjay Kr. Deori

S/o Late Kharga Singh Deori, R/o Barukata, P.S. Jagiroad, Morigaon

.....Accused persons

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

Advocates appeared

For the State: Ms. B. Devi

For the accused persons: Mr. H. Das

Evidence recorded on: 14.11.2019

Argument heard on: 14.11.2019

Judgment delivered on: 14.11.2019

JUDGMENT

1. The informant Sri Bikul Bordoloi had lodged an ejahar through the Court before Morigaon P.S. on 12.7.2017 stating inter alia that on 18.5.2010 the VLMCC was formed under the Revenue and Disaster Management Department of the government of Assam in the village Sotgomariguri. The said committee would perform duties in the conservation of marsh land, hills, historical area etc. The informant is also a member of the said committee. The said committee falls under Mayong Revenue Circle and comprises of about 5000 bighas of land including the VGR/PGR of Niz

Ghaguwa mouza. The accused persons had possessed the said land illegally and had been selling parts of the land. Verbal information about such activity to the CO of Mayong Revenue Circle was also passed. After which the CO formed a land conservation committee where the Govt. Gaonburha Ganesh Bordoloi was appointed as the Editor according to government rules. And as such, the informant, Ganesh Bordoloi and the local villagers have been protecting the land of PGR/VGR. But on 25.6.2017 on the provocation of accused Sanjay Deori the other accused illegally wanted to construct houses and sale them in the said land. Then on 26.6.2017 and 27.6.2017 the informant along with the gaonburha asked the accused persons to break the constructed houses. Immediately the accused persons armed with sharp weapon, dao etc. tried to kill the informant when the witnesses saved his life. On the same day when the informant along with the witnesses was returning towards home then the accused persons in front of Sanjay Deori's house restrained them and sent them home by thrashing with a threat to cause death in the near future. Hence the informant had filed this case.

2. The ejahar was received and registered as Morigaon PS case No. 274/17 u/s 467/420/506/323/341/120(B) IPC.
3. The I/O after due investigation of the case submitted charge sheet u/s 341/506/34 IPC against the accused persons.
4. Copy of the relevant documents were furnished to the accused persons.
5. During trial, particulars of offences u/s 341/506/34 were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
6. The prosecution has examined two witnesses i.e. including the informant-cum-victim. The statement of the accused persons u/s 313 CrPC was recorded. The defence side adduced no evidence and pleaded for total denial.

POINTS FOR DETERMINATION:

- i) Whether the accused persons in furtherance of their common intention, wrongfully restrained the informant Sri Bikul Bordoloi by voluntarily obstructing him so as to prevent him from proceeding

- in any direction in which he had a right to proceed and thereby committed an offence punishable under Sec. 341/34 IPC?
- ii) Whether the accused persons in furtherance of their common intention threatened the informant with dire consequences with intent to cause alarm to him and thereby committed an offence punishable under section 506/34 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 are discussed below.

DISCUSSION, DECISION AND REASONS THEREOF:

8. PW1 Sri Bikul Bordoloi who is the informant-cum-victim deposed that he filed this case and the accused persons are known to him. The incident happened in the year 2016/17 nearby a water canal at Hariabori at around 10/11 am. There were two temporary committees for the said water canal where people catch fishes. Near the canal the accused persons collected materials to construct a house on government land. PW1 being the member of the committee informed the matter to the Gaonburha and police and replaced those materials to the house of the Gaonburha. Ext-1 is the ejahar and Ext-1(1), 1(2) and 1(3) are his signatures. In cross-examination PW1 stated that the matter is amicably settled between them hence he does not want to proceed with this case. He further does not have any objection if the accused persons are acquitted of this case.
9. PW2 Sri Jailsing Bordoloi who deposed that both the informant and the accused persons are known to him. He does not know anything about the incident. The learned defense counsel declined to cross-examine PW2.
10. From the deposition of PW1 it appears that there is nothing incriminating against the accused persons. PW1 who is the informant-cum-victim himself has not supported the case. In his cross-examination he stated that the matter is amicably settled between them hence he does not want to proceed with this case. He further does not have any objection if

the accused persons are acquitted of this case. Further PW1 has not at all implicated the accused persons u/s 341/506/34 IPC.

11. In view of the above, it is held that the prosecution has failed to establish the charges u/s 341/506/34 IPC against the accused persons Karna Deuri, Jingu Bordoloi and Sanjay Kr. Deuri. Accordingly, the accused persons are acquitted of the alleged offences labeled against them and set at liberty forthwith.
12. Bail bonds and affidavits submitted by the bailor are extended for a period of six months as per amended Cr.P.C.
13. The case is disposed of on contest.

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

(Lohit Kumar Sarma)
Sub Divisional Judicial Magistrate(S),
Morigaon

APPENDIX

Prosecution witnesses:

PW1- Sri Bikul Bordoloi (Informant-cum-victim)

PW2- Sri Jailsing Bordoloi

Exhibits for the prosecution:

Ext-1: Ejahar

Defence witness:

Nil

Exhibits for defence:

Nil

Lohit Kumar Sarma
SDJM(S), Morigaon