

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.2045/2016

State

Vs.

**Sri Mrinal Patar @ Babul
Son of Late Srikanta Patar
Resident of village: Nellie
P.S.- Jagiroad,
District- Morigaon, Assam**

Present: Sri N.K. Das, AJS
Chief Judicial Magistrate, Morigaon

For the state: Mr. D.J. Nath, Asstt. P.P.

For the defense: Md. A. Hoque, Advocate

Charge framed: u/s 341/294/506(II) IPC

Evidence recorded on: 1-11-2019

Argument heard on: 1-11-2019

Judgment delivered on: 1-11-2019

JUDGMENT

1. The prosecution case in brief is that one Md. Mainul Hoque lodged an ejahar in the Nellie police out post under Jagiroad police station against the accused Sri Mrinal Patar @ Babul alleging therein that on 20-8-2016 at about 7.30 p.m., while the informant was having a discussion with 2/3 of his friends on the road, in front of the house of Md. Abdur Rahman of Nellie, the aforementioned accused, armed with dao and other sharp weapons, arrived near him in a motorcycle and hurled obscene abuses at him, without any rhyme or reason, accusing the informant as to why he joined BJP. Moreover, the accused charged towards the informant brandishing the dao in order to kill the informant. But the informant, by taking advantage of the darkness, saved himself by fleeing from the scene.

2. The ejahar was received on 21-8-2016 in the Nellie police out post vide Nellie police out post GD Entry No.422 dated 21-8-2016 at 11.30 p.m. and the ejahar was forwarded to the Officer-in-Charge of Jagiroad police station for registering a case under proper sections of law. In the meantime, the sub

inspector of police Sri Jyotimoy Dutta, who was the In-charge of the said police out post, took up the investigation of the case. Subsequently, on the same day, the ejahar was received in the Jagiroad police station and a Jagiroad police station case No.386/2016 under sections 341/294/506 of IPC was registered and the Officer-in-Charge of the said police station endorsed the investigation already taken up at the Nellie police out post, as aforementioned. On completion of investigation, police submitted charge sheet against the accused Sri Mrinal Patar @ Babul under sections 341/294/506 of IPC.

3. On appearance before court copies of all relevant documents were furnished to the accused person under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offences under sections 341/294/506(II) IPC being found against the above mentioned accused person, formal charge under sections 341/294/506(II) IPC was framed, which was read over and explained to the accused Sri Mrinal Patar @ Babul to which he pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 1 (one) witness namely Md. Mainul Hoque, as PW-1, who is the informant cum alleged victim of the case. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). Examination of the accused person under section 313 CrPC was dispensed with for lack incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the argument of Mr. Dhrubajyoti Nath, learned APP as well as the argument of Md. Aminul Hoque, learned defence counsel. I have also perused the case record and considered the same. The points for determination is as under:

- i. Whether the accused person, on or about 20-8-2016 at about 7.30 p.m. at village Nellie, under Jagiroad police station, wrongfully restrained Md. Mainul Hoque, 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 section 341 of IPC?
- ii. Whether the accused person, on or about the same day, time and place, uttered obscene words in a public place to the annoyance of

Md. Mainul Hoque and thereby committed an offence punishable under section 294 of IPC?

- iii. Whether the accused person, on or about the same day, time and place, threatened to kill the informant Md. Mainul Hoque, with intent to cause alarm to him and thereby committed an offence punishable under section 506(II) of IPC?

Discussion of evidence, decision and reasons therefor:

6. The informant cum alleged victim, as PW-1, in his deposition has not supported his own case and did not implicate the accused with the alleged offence. The PW-1 deposed that that matter has already been amicably settled by them at the intervention of both the parties. According to the PW-1, the case was filed due to misunderstanding and as such, he no longer wants to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of the witness against the accused person to implicate him with the alleged offence. The key witness, who is the informant cum alleged victim of the case, did not implicate the accused person with the alleged offence. In view of the deposition of the witness, the prosecution side did not proceed further to summon and examine the remaining witnesses as their evidence is not likely to improve the prosecution case and closed the prosecution evidence and perhaps rightly so.

8. For the aforesaid reason and discussion the points for determination are answered in the negative.

9. The prosecution has failed to prove the case against the accused person. As such, the accused person is found not guilty and accordingly acquitted of offences under sections 341/294/506(II) IPC alleged against him. He be set at liberty forthwith. His bail bond shall remain in force for six months from today in view of section 437A of CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 1st day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

- (A) PROSECUTION EXHIBITS:**
Ext.-1: Ejahar
Ext.-1(1): Signature of Md. Mainul Hoque
- (B) DEFENCE EXHIBITS**
None
- (C) EXHIBITS PRODUCED BY WITNESSES**
None
- (D) COURT EXHIBITS**
None
- (E) PROSECUTION WITNESSES**
P.W.-1: Md. Mainul Hoque
- (F) DEFENCE WITNESSES**
None
- (G) COURT WITNESSES**
None

Chief Judicial Magistrate, Morigaon