

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIOGAON, ASSAM.

GR Case No. 2270/16

U/S 143/447/294 IPC

STATE OF ASSAM

-VS-

1. MD. JONAB ALI, S/O LT. SADOT ALI.

2. MD. ALIMUDDIN, S/O MD. JONAB ALI.

3. MD. ZAKIR HUSSAIN, S/O MD. JONAB ALI.

4. MD. HELIMUDDIN, S/O MD. JONAB ALI.

5. MD. IMDADUL ISLAM, S/O MD. JONAB ALI.

6. MD. AHER ALI, S/O MD. ABDUL HAMID.

ALL R/O LENGRI BORI, WARD NO. 4,

P.S. MOIRABARI, DIST. MORIOGAON, ASSAM.

..... ACCUSED PERSONS.

PRESENT: -

SMTI. ANAMIKA BARMAN, LL.M., A.J.S.

JUDICIAL MAGISTRATE FIRST CLASS

MORIOGAON, ASSAM.

FOR THE STATE: -

MR. M. ISLAM, LEARNED A.P.P.

FOR THE ACCUSED: -

MR. BILLAL HUSSAIN, LEARNED ADVOCATE.

EVIDENCE RECORDED ON: - 14.11.2019.

ARGUMENT HEARD ON: - 14.11.2019.

JUDGMENT DELIVERED ON: - 14.11.2019.

JUDGMENT

1. The brief of the prosecution story is that one Musstt. Aktara Begum filed a complaint petition before the Ld. Chief Judicial Magistrate, Morigaon on 06.09.2016 which was forwarded to the Officer-in-charge, Moirabari P.S. on the same date for investigation. The informant filed the complaint petition alleging inter-alia that on 05.09.2016, at about 05:30 pm, while the husband of the informant was not at home, the accused persons, namely, Md. Jonab Ali, Md. Alimuddin, Md. Helimuddin, Md. Zakir Hussain, Md. Imdadul Islam and Md. Aher Ali went to the house of the informant and rebuked her with obscene words, tore her clothes and assaulted her. When the informant raised hue and cry, nearby people came and rescued the informant. Hence, the case.

2. On receipt of the ejahar, Moirabari P.S. Case No. 341/16 u/s 447/294/354/323/34 of IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against all the 6 (six) FIR-named accused persons u/s 143/447/294 IPC.

3. On receipt of summons the accused persons appeared before the Court. Copies of relevant documents were furnished to the accused persons under section 207 of Cr. P.C. On finding sufficient materials to presume that the accused persons had committed offences under Sections 143/447/294 of IPC, the particulars of offences under the said sections were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. In support of its case, prosecution examined only 1 (one) witnesses. In view of the evidence recorded, the Ld. APP verbally prayed to close PWs as the prosecution declined to adduce further evidence. After closure of prosecution evidence, statement u/s 313 of Cr.P.C. has been dispensed with as found not necessary. Defence declined to adduce evidence. Heard the arguments put forward by the learned Counsels for both the sides as well as gone through the evidences available on record.

5. **Point for determination.**

(I) Whether on 05.09.2016, at about 05:30 pm, at Lengribori under Moirabari P.S., the accused persons, were a member of an unlawful assembly, the common object of which was to commit criminal trespass and to utter

obscene words at or near a public place, and hence committed an offence u/s 143 of IPC?

(II) Whether on the same date, time and place, the accused persons, in prosecution of their common object, committed criminal trespass by entering into the property of the informant which was also in the possession of the informant, with intent to commit an offence, and hence committed an offence u/s 447 of IPC?

(III) Whether on the same date, time and place, the accused persons, in prosecution of their common object, uttered obscene words at or near a public place, and hence committed an offence u/s 294 IPC?

Discussion, Decision and Reasons thereof:-

6. In this case prosecution examined only 1 (one) witnesses. The informant/victim Musstt. Aktara Begum @ Khatun was examined as PW-1 to prove the charges against the accused persons.

7. Before going to decide the points for determination, let me describe the evidence in brief. *In her examination-in-chief* PW-1/informant/victim, Musstt. Aktara Begum @ Khatun, deposed that she is the informant and she knows the accused persons standing on the dock as they are her in-laws. Though she had filed this case in the name of Aktara Begum, the name mentioned in her voter i/d card is Aktara Khatun. She further deposed she had filed this case in the year 2016. On the date of the incident she had a verbal altercation with the accused persons over some family matters and she filed the instant case in that misunderstanding.

8. *During her cross-examination*, PW-1 stated that she does not have any objection if the accused persons are acquitted.

9. On perusal of the evidences recorded by the prosecution side, it appears that the PW-1/informant/victim is not willing to proceed with the case further and she stated that the case was filed out of some misunderstanding. Now, she does not have any objection if the accused persons are acquitted.

10. In view of the evidence on record, the prosecution side declined to adduce further evidence. This being so there is nothing in the evidence of prosecution

warranting conviction of the accused persons u/s 143/447/294, IPC as the evidence of the prosecution witness is found to be not acceptable and reliable.

11. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 143/447/294 IPC against the accused persons beyond reasonable doubt. Accordingly, the accused persons are found not guilty of the offence charged against them and are acquitted.

ORDER

12. In the light of the above decision, the accused persons are acquitted of the charge under section 143/447/294 of IPC and set at liberty forthwith.

13. The bail bonds of the accused persons are extended for a period of 6 (six) months as per section 437-A, Cr.P.C.

14. The judgment is delivered in the open Court in presence of the accused persons and their learned Counsel.

15. Given under my hand & seal of this Court and delivered in the open Court on this 14st day of November, 2019.

Dictated and corrected by me

(Miss. Anamika Barman)

JMFC, Morigaon

(ANAMIKA BARMAN)

Judicial Magistrate First Class

Morigaon, Assam

APPENDIX

PROSECUTION WITNESSES:

1. P.W.-1, MUSST. AKTARA BEGUM @ KHATUN.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

**(ANAMIKA BARMAN)
JMFC, Morigaon
Assam**