

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.2500/2015

State

Vs.

- 1. Md. Jahuruddin
Son of Late Abdul Latif**
 - 2. Musstt. Fatema Khatun
Wife of Md. Jahuruddin**
 - 3. Musstt. Jahura Khatun
Wife of Late Abdul Latif**
- All are residents of village: Ram Mandir,
P.S.- Jagiroad,
District- Morigaon, Assam**

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

For the state: Mrs. A. Kakati, Addl. P.P.

For the defense: Mr. U.C. Roy and Ms. T. Das, Advocates

Offences explained: u/s 341/352/294/34 IPC

Evidence recorded on: 19-11-2019

Argument heard on: 19-11-2019

Judgment delivered on: 21-11-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt. Sufia Khatun lodged an ejahar in the Jagiroad police station against the accused persons namely Md. Jahuruddin, Musstt. Fatema Khatun, Musstt. Jahura Khatun and Musstt. Jaigun Nessa alleging therein that on 26-10-2015 at about 1.30 p.m., Musstt. Asmina Begum, aged about six years, who was the daughter of the aforementioned informant, was being beaten by the accused Musstt. Fatema Khatun, without any rhyme or reason, near the house of the informant. On hearing her cries, the informant came running into the spot and prevented the said accused from beating her daughter. However, immediately thereafter, the aforementioned accused persons restrained the informant and the accused Md. Jahuruddin,

caught hold of her hair, threw her on the ground and beat her with hands and legs. Thereafter, Md. Ikbal Hussain, who is the son of the informant and Musstt. Sultana Begum, who is the daughter of the informant, who was carrying four months pregnancy, were also beaten by the accused persons mercilessly. As a result of the attack, the informant sustained severe injuries on her head and chest and her daughter sustained injury on her abdomen. The accused persons, thereafter, fled away and while fleeing away, they threatened to kill the informant.

2. The ejahar was received in the Jagiroad police station on 27-10-2015 and a Jagiroad police station case No.478/2015 under sections 341/325/506/34 of IPC was registered and one assistant sub inspector of police Sri Shyamal Roy was assigned to take up the preliminary steps of the investigation and another sub inspector of police Sri Mridul Hazarika was assigned to complete the investigation by the officer-in-charge of the said police station. On completion of investigation, police submitted charge sheet against the accused persons namely Md. Jahuruddin, Musstt. Fatema Khatun and Musstt. Jahura Khatun under sections 341/352/294/34 IPC.

3. On appearance before court copies of all relevant documents were furnished to the accused persons under section 207 CrPC. Particulars of offences under sections 341/352/294/34 of IPC were explained to the accused persons, to which they pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 3 (three) witnesses namely Musstt. Sufia Khatun, Md. Ikbal Husain and Musstt. Sultana Begum, as PW-1, PW-2 and PW-3, respectively. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). Examination of the accused persons 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 Mrs. Alakananda Kakati, learned APP and the argument of Mr. Umesh Ch. Roy, assisted by Ms. Tulsi Das, learned defence counsels, perused the case record and considered the same. The points for determination are as under:

- i. Whether the accused persons, on or about 26-10-2015, at about 1.30 p.m., at village Ram Mandir under Jagiroad police station, in furtherance of their common intention, wrongfully restrained Musstt. Sufia Khatun, so as to prevent her from proceeding in any direction in which she had a right to proceed and thereby committed an offence punishable under section 341, read with section 34 of IPC?
- ii. Whether the accused persons, on or about the same day, time and place, in furtherance of their common intention, assaulted or used criminal force to Musstt. Asmina Begum, Musstt. Sufia Khatun, Md. Iqbal Hussain and Musstt. Sultana Begum and thereby committed an offence punishable under section 352 read with section 34 of IPC?
- iii. Whether the accused persons, on or about the same day, time and place, in furtherance of their common intention, uttered obscene words in a public place to the annoyance of Musstt. Sufia Khatun, Md. Iqbal Hussain and Musstt. Sultana Begum and thereby committed an offence punishable under section 294, read with section 34 of IPC?

Discussion of evidence, decision and reasons therefor:

6. The witnesses who are the informant and alleged victims of the case, in their depositions, have not supported their own case and did not implicate the accused persons with the offences alleged against them. They deposed that the matter has already been amicably settled amongst them at the intervention of the local villagers. The witnesses further stated that the case was filed due to misunderstanding and they no longer want to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of PWs against the accused persons to implicate them with the alleged offences. The key witnesses, who are the informant and the alleged victims of the case, did not implicate the accused persons with the alleged offences. In view of the deposition of the witnesses, 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 reasons and discussion the points for determination are answered in the negative.

9. The prosecution has failed to prove the case against the accused persons. As such, the accused persons are found not guilty and accordingly acquitted of the offences under sections 341/352/294/34 of IPC alleged against them. They be set at liberty forthwith. Their bail bonds 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 21st day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1 (1): Signature of Musstt. Sufia Khatun

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Musstt. Sufia Khatun

P.W.-2: Md. Ikbal Hussain

P.W.-3: Musstt. Sultana Begum

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon