

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.2601/2015

State

Vs.

- 1. Musstt. Mursida Khatun
Wife of Md Samsuddin**
- 2. Musstt. Amena Khatun
Wife of Md. Rofiqul Islam
Both are residents of village: Borpathar
Bhangamur, P.S.- Bhuragaon,
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: Md. M. Rahman, Md. A. Shahnewaz, Mrs. B. Mahanta,
Advocates

Offences explained: u/s 341/294/506(I)/34 of IPC

Evidence recorded on: 19-11-2019 and 30-11-2019

Argument heard on: 30-10-2019

Judgment delivered on: 30-10-2019

JUDGMENT

1. The prosecution case in brief is that one Md. Mofizuddin lodged an ejahar in the Bhuragaon police station against the accused persons namely Md. Mursida Khatun, Musstt. Amena Khatun, Md. Rofiqul Islam and Md. Samsuddin alleging therein that the accused persons are adjacent neighbours of the informant and the accused persons are quarrelsome atrocious people. On 29-11-2015 at about 8.00 a.m., the accused Mustt. Mursida Khatun and Musstt. Amena Khatun quarreled with Musstt. Hasina Khatun, who is the wife of the aforementioned informant, in connection with a pair of sandal belonging to a six year old son of accused Musstt. Mursida Khatun and both the said accused persons hurled obscene abuses at Musstt. Hasina Begum. When such abuses became intolerable and when she protested from the entrance of her house, at the instigation of accused Md. Rofiqul and Md. Samsuddin, the other two accused persons

namely Musstt. Mursida Khatun and Musstt. Amena Khatun came running towards Musstt. Hasina Khatun, restrained her, inflicted indiscriminate fist blows, kicks etc. on several part of her body, pulled her hair, threw her on the ground and thereby caused severe injuries on her person. They also threatened her in various manner. The aforementioned accused persons, for a long time, were conspiring to dispossess the informant from his land and also conspired to beat them. Though the injured Musstt. Hasina Khatun was immediately taken to Bhuragaon hospital for medical treatment; however, in view of seriousness of her injury, she was referred by doctor to Morigaon Civil Hospital. There was some delay in lodging the ejahar as she was busy in her medical treatment.

2. The ejahar was received in the Bhuragaon police station on 1.12.2015 and a Bhuragaon police station case no.167/2015 under sections 341/294/325/34 of IPC was registered and the sub inspector of police Sri Julan Kalita, who was the Officer-in-Charge of the said police station, decided to complete the investigation. On completion of investigation, police submitted charge sheet against the accused persons namely Musstt. Mursida Khatun and Musstt. Amena Khatun under sections 341/294/506/34 of IPC.

3. On appearance of the accused persons before Court, copies of all relevant documents were furnished to the accused persons under section 207 CrPC. Particulars of offences under sections 341/294/506(I)/34 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 2 (two) witnesses namely Md. Mofizuddin, as PW-1, who is the informant of the case and another witness namely Musstt. Hasina Begum, who is the alleged victim, as PW-2. The ejahar was proved as exhibit-1 and the informant put his thumb impression on the ejahar. Examination of the accused persons under section 313 CrPC was dispensed with for lack of incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the arguments of Smti. Alakananda Kakati, learned APP as well as Md. Mujibur Rahman, assisted by Md. Albert Shahnewaz, Mrs. Banti Mahanta, learned defence counsels, perused the case record and considered the same. The following points for determination are formulated:

- i. Whether the accused persons, on or about 29-11-2015 at about 8.00 a.m., at village Borpathar (Bhangamur) under Bhuragaon police station of Morigaon district, in furtherance of their common intention, wrongfully restrained Musstt.

Hasina Begum, 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 IPC read with section 34 of IPC?

- ii. Whether the accused persons, on or about the same date, time and place, in furtherance of their common intention, uttered obscene words in a public place to the annoyance of Musstt. Hasina Begum and thereby committed an offence punishable under section 294 IPC read with section 34 of IPC?
- iii. Whether the accused persons, on or about the same date, time and place, in furtherance of their common intention, threatened Musstt. Hasina Begum to cause alarm to her and thereby committed an offence punishable under section 506(I) IPC read with section 34 of IPC?

Discussion of evidence, decision and reasons therefor:

6. For convenience all the points for determination are taken up together for discussion. Both the witnesses deposed that the matter has already been amicably settled with the accused persons at the intervention of the villagers. According to them, the case was lodged out of misunderstanding and as such, they no longer want to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of the witnesses against the accused persons to implicate them with the alleged offences. The key witnesses did not implicate the accused persons with the alleged offences. In view of the deposition of the aforesaid 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 offences under sections 341/294/506(I)/34 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 30th day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

- (A) PROSECUTION EXHIBITS:**
Ext.-1: Ejahar
- (B) DEFENCE EXHIBITS**
None
- (C) EXHIBITS PRODUCED BY WITNESSES**
None
- (D) COURT EXHIBITS**
None
- (E) PROSECUTION WITNESSES**
P.W.-1: Md. Mofizuddin
P.W.-2: Musstt. Hasina Begum
- (F) DEFENCE WITNESSES**
None
- (G) COURT WITNESSES**
None

Chief Judicial Magistrate, Morigaon