

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

**PRC Case No. 189/19**

**U/S 143/447/294 IPC**

**STATE OF ASSAM**

**-VS-**

- 1. MD. ABDUL REZZAK, S/O LT. ABDUL RASHID.**
- 2. MD. BAHARUL ISLAM, S/O MD. ISLAM UDDIN.**
- 3. MD. MUKSIDUL ISLAM, S/O MD. KASHEM ALI.**
- 4. MD. MUKSIDUL AHMED, S/O LT. ABDUL HELIM.**
- 5. MD. FAKARUDDIN, S/O LT. ABDUL HELIM.**
- 6. MD. NAZIMUDDIN, S/O LT. ABDUL HELIM.**
- 7. MD. SHAHIDUL ISLAM, S/O MD. KASHEM ALI.**

**ALL R/O SATIYANTOLI, P.S. MOIRABARI,**

**DIST. MORIGAON, ASSAM.**

**..... ACCUSED PERSONS.**

**PRESENT: -**

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

**JUDICIAL MAGISTRATE FIRST CLASS**

**MORIGAON, ASSAM.**

**FOR THE STATE: -**

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

**FOR THE ACCUSED: -**

**MR. A. RASHID, LEARNED ADVOCATE.**

**EVIDENCE RECORDED ON: - 04.01.2020.**

**ARGUMENT HEARD ON: - 04.01.2020.**

**JUDGMENT DELIVERED ON: - 04.01.2020.**

## **JUDGMENT**

1. The brief of the prosecution story is that one Md. Ansar Uddin Ahmed filed an FIR before the Officer-in-Charge, Laharighat P.S. on 13.08.18, alleging inter alia that on that day itself, i.e., 13.08.18, at about 10:00 am, while the informant was teaching in a school, the accused persons, namely, Md. Abdul Rezzak, Md. Baharul Islam, Md. Muksidul Islam, Md. Fakaruddin along with and few other persons, wrongfully entered into the class his class room and rebuked him with obscene language alleging that the informant is involved in the unlawful selling of the rice allotted for the mid-day meal of the students of that school. Thereafter, the accused persons tried to attack and assault the informant. However, when hue and cry was raised, other teachers of that school came to the place of occurrence and rescued the informant from the accused persons. Hence, the case.

2. On receipt of the ejahar, Laharighat P.S. Case No. 219/18 u/s 143/448/294/353 IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against accused persons, namely, Md. Abdul Rezzak, Md. Baharul Islam, Md. Muksidul Islam, Md. Fakaruddin, Md. Muksidul Ahmed, Md. Nazimuddin and Md. Shahidul Islam u/s 143/447/294 of 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 3 (three) 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 13.08.18, at about 10:00 am, at the school in which the informant is a teacher, 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 school property in which the informant is a teacher, 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 3 (three) witnesses. The informant/victim Md. Ansar Uddin Ahmed was examined as PW-1, one Sri Chintu Gogoi was examined as PW-2 and one Sri Diganta Prosing was examined as PW-3 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 his examination-in-chief* PW-1/informant/victim, Md. Ansar Uddin Ahmed, deposed that he is the informant and he knows the accused persons. PW-1 is the Headmaster of the school, namely, Satiantoli Primary School and the said school is in the same village in which the accused persons reside. He further deposed he had filed this case about 1 (one) year prior to the date of his deposition. On the date of the incident he had a verbal altercation with the accused persons over the matter of the mid-day meal of the said school and he filed the instant case in that misunderstanding.

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

9. *In his examination-in-chief* PW-2, Sri Chintu Gogoi, deposed that he knows the informant and the accused persons. The informant is the Headmaster of the school in which PW-2 is a teacher and the accused persons reside in the same village in which the said school is situated. He further deposed that the incident had taken place about 1 (one) year prior to the date of his deposition. On the date of the incident, many villagers had come to their school to discuss a matter with the informant and PW-2 sent them out of the school saying that the informant will go out and have a discussion with them. Thereafter, the informant went out of the school to have a discussion with the villagers but PW-2 does not know what happened in that discussion. Defence declined to cross-examine this witness on his deposition.

10. *In his examination-in-chief* PW-3, Sri Diganta Prosing, deposed that he knows the informant and the accused persons. The informant is the Headmaster of the school in which PW-2 is a teacher and the accused persons reside in the same village in which the said school is situated. He further deposed that the incident had taken place about 1 (one) year prior to the date of his deposition. On the date of the incident, at about 09:30 am to 10:00 am, the accused persons had come to their school and had an argument with the informant over the matter of mid-day meal of the students of the said school. Thereafter, the informant filed the instant case against the accused persons in that misunderstanding.

11. *During his cross-examination*, PW-2 stated that he does not have any objection if the accused persons are acquitted.

12. 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 he stated that the case was filed out of some misunderstanding. Now, he does not have any objection if the accused persons are acquitted. PW-2 deposed that he does not know much about the incident and PW-3 also deposed that the case was filed by the informant out of some misunderstandings.

13. 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 witnesses is found to be not acceptable and reliable.

14. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charges 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**

15. 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.

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

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

18. Given under my hand & seal of this Court and delivered in the open Court on this 4<sup>th</sup> day of January, 2020.

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, MD. ANSAR UDDIN AHMED.
2. P.W.-2, SRI CHINTU GOGOI.
3. P.W.-3, SRI DIGANTA PROSING.

**DEFENCE WITNESSES:**

NIL

**EXHIBITED DOCUMENTS:**

NIL

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