

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE,

MORIGAON

G. R. Case No: 49/17

Under sections 341/447/294/506/34 of Indian Penal Code

State

Vs

1. Musstt. Parbin Sultana

W/o Md. Mehedi Alam, R/o Pub Balidunga, P.S. Bhuragaon, Morigaon, Assam.

2. Musstt. Mamtaz Begum

W/o Md. Safiqul Islam, R/o Pub Balidunga, P.S. Bhuragaon, Morigaon, Assam.

3. Musstt. Gulesha Begum

W/o Md. Abdul Latif, R/o Pub Balidunga, P.S. Bhuragaon, Morigaon, Assam.

4. Md. Jamat Ullah

S/o Late Firuj Ali, R/o Pub Balidunga, P.S. Bhuragaon, Morigaon, Assam.

.....Accused persons

Present: Lohit Kumar Sarmah, SDJM(S), Morigaon

Advocates appeared

For the State: Smti. Banti Devi

For the accused persons: Ms. B. Mahanta

Evidence recorded on: 16.10.2019

Argument heard on: 16.10.2019

Judgment delivered on: 16.10.2019

JUDGMENT

1. The informant Musstt. Sharifa Khatun lodged an ejahar before the Bhuragaon PS on 3.1.2017 stating inter alia that on 2.1.2017 at around 2 pm the accused persons entered into the house of informant, wrongfully restrained her and caused her injuries by beating her with blows of punches, elbows, kicks etc. When Ramisha Khatun and Murshida Khatun tried to obstruct the accused persons then they restrained them, abused them with filthy language and caused her injuries by beating them with blows of punches, elbows, kicks etc. Hence the informant had filed this case.
2. The ejahar was received and registered as Bhuragaon PS case No. 07/17 under sections 143/447/341/323/294/506 of Indian Penal Code.

3. The I/O after due investigation of the case submitted charge sheet under sections 447/341/294/506/34 of Indian Penal Code against the accused persons.
4. Copy of the relevant documents were furnished to the accused persons.
5. On perusal of the case record sufficient ground under sections 341/447/294/506/34 of Indian Penal Code were found against the accused persons and accordingly the particulars of offences under the above sections were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
6. The prosecution has examined only one witness i.e. the informant-cum-victim. The statement of the accused persons under section 313 CrPC was dispensed with as no incriminating materials against the accused persons were found. The defence side adduced no evidence and pleaded for total denial.

POINTS FOR DETERMINATION:

- i) Whether the accused persons on 2.1.2017 at around 2 pm, in furtherance of their common intention, wrongfully restrained the informant namely Musstt. Sarifa Khatun by voluntarily obstructing her 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 Sec. 341/34 IPC?
 - ii) Whether the accused persons on 2.1.2017 at around 2 pm, in furtherance of their common intention committed criminal trespass by entering into or upon property in the possession of the informant and others with intent to commit an offence and thereby committed an offence punishable under Section 447/34 IPC?
 - iii) Whether the accused persons on 2.1.2017 at around 2 pm, in furtherance of their common intention, uttered obscene words in or near a public place to the annoyance of others, and thereby committed an offence punishable under Sec. 294/34 IPC?
 - iv) Whether the accused persons on 2.1.2017 at around 2 pm, in furtherance of their common intention, threatened the informant with dire consequences and thereby committed an offence punishable under Sec. 506/34 IPC?
7. I have heard the oral arguments put forward by both the Counsels. I have also gone through the entire evidence available on record. My discussion and reasons for the decision is discussed below.

DISCUSSION, DECISION AND REASONS THEREOF:

8. PW1 Musstt. Sarifa Khatun who is the informant-cum-victim deposed that the accused persons are her family members. The incident took place around three

years prior to her deposition in a field nearby to her house. That on the day of incident she had some verbal altercations with the accused persons and this case was filed out of misunderstanding. At present, they have amicably settled the matter between them; hence she does not want to proceed with this case anymore. Ext-1 is the ejahar where she put his thumb impression. In cross-examination PW1 stated that she does not have any objection if the accused persons are acquitted of this case.

9. From the deposition of PW1 it appears that there is nothing incriminating against the accused persons. PW1 who is the informant cum victim herself has not supported the case. In her deposition she stated that she had some verbal altercations and then this instant case was filed. She further stated that they have amicably settled the matter between themselves; hence she does not have any objection if the accused persons are acquitted of the case. Further PW1 has not at all implicated the accused persons under sections 447/341/294/506/34 of Indian Penal Code.
10. In view of the above I am of the opinion that the prosecution has failed to establish the charges under sections 447/341/294/506/34 of Indian Penal Code against the accused persons. Accordingly the accused persons **Parbin Sultana, Mantaz Begum, Gulesa Begum and Jamat Ullah** are acquitted of the alleged offences leveled against them and set at liberty.
11. Bail bond and affidavits furnished by the bailor is extended for a period of six months from today.

Given under my hand and seal of this Court on the 16th day of October 2019 at Morigaon.

Lohit Kumar Sarmah
SDJM(S), Morigaon

APPENDIX

Prosecution witnesses:

PW1- Musstt. Sarifa Khatun (Informant-cum-victim)

Exhibits for the prosecution:

Ext-1 : Ejahar

Defence witness :

Nil

Exhibits for defence:

Nil

Lohit Kumar Sarmah
SDJM(S), Morigaon