

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.589/2015

State

Vs.

- 1. Musstt. Rufeja Begum
Wife of Md. Joynal Ali**
 - 2. Musstt. Momtaz Begum
Daughter of Md. Habibullah**
 - 3. Md. Habibullah
Son of Late Kazimuddin**
 - 4. Musstt. Hanufa Begum
Wife of Md. Habibullah**
 - 5. Musstt. Manjuara Begum
Wife of Md. Abdul Hasim**
- All are residents of village: Pub-Balidonga
Ward No.3, P.S.- Bhuragaon,
District- Morigaon, Assam**

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

For the state: Mr. D.J. Nath, Asstt. P.P.
For the defense: Md. R. Amin, Advocate

Offences explained u/s: 143/341/294/323/149 of IPC
Evidence recorded on: 4-10-2018, 24-10-2018 & 27-3-2019
Argument heard on: 27-3-2019
Judgment delivered on: 27-3-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt Jyoshnara Begum lodged an ejahar in the Bhuragaon police station against the accused persons namely Musstt. Rufeja Begum, Musstt. Momtaz Begum, Md. Habibullah, Musstt. Hanufa Begum and Musstt. Manjuara Begum alleging therein that the informant and the accused persons are adjacent neighbours. On 17-3-2015 at about 3 p.m. a goat belonging to accused Md. Habibullah was damaging the cultivation belonging to the informant. When the aforesaid informant saw the same, she drove away the goat from the cultivation. However, at the instigation of accused Md. Habibullah, the remaining accused persons abused the informant with obscene language, restrained her, pushed & pulled her, dragged her on

to the courtyard of the house of the accused persons, mercilessly inflicted fist blows, kicks etc. on her, pulled her hair and in order to kill her, the accused Md. Habibullah inflicted a blow on her head with a bamboo stick causing severe injuries on her head. Blood oozed out of her head injury.

2. The ejahar was received in the Bhuragaon police station on 17-3-2015 and a Bhuragaon police station case No.53/2015 under sections 341/143/294/354/307/325 IPC was registered and one sub inspector of police Sri Anthani Rongpy was assigned to complete the investigation of the case by the Officer-in-Charge of the said police station. On completion of investigation, police submitted charge sheet against all the five accused persons under sections 341/143/294/323 of 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 143/341/294/323/149 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 Md. Abdul Hasim, Md. Umar Faruque and Musstt Jyoshnara Begum, as PW-1, PW-2 and PW-3, respectively. The ejahar is exhibited as exhibit-1 and informant put her 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 both sides, perused the case record and considered the same. The points for determination are as under:

- i. Whether the accused persons, on or about 17-3-2015, at about 3.00 p.m. at village Pub-Balidonga, Ward No.3, under Bhuragaon police station, were members of an unlawful assembly and thereby committed an offence punishable under section 143 of IPC?
- ii. Whether the accused persons on or about same date, time and place, in prosecution of common object of the unlawful assembly, wrongfully restrained Musstt Jyoshnara 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 read with section 149 of IPC?

- iii. Whether the accused persons on the same date, time and place, in prosecution of common object of the unlawful assembly, uttered obscene words in a public place to the annoyance of Musstt Jyoshnara Begum and thereby committed an offence punishable under section 294 IPC read with section 149 of IPC?
- iv. Whether the accused persons on the same date, time and place, in prosecution of common object of the unlawful assembly, voluntarily caused hurt to Musstt Jyoshnara Begum and thereby committed an offence punishable under section 323 read with section 149 of IPC?

Discussion of evidence, decision and reasons therefor:

6. For convenience all the points for determination are taken up together for discussion. PW-1 Md. Abdul Hasim expressed his ignorance about the alleged occurrence and PW-2 Md. Umar Faruque was not present at the time of occurrence and after arrival at home he heard about the quarrel from his elder brother. PW-2 also stated that he does not know why the quarrel took place. PW-3 Musstt Jyoshnara Begum, who is the informant cum alleged victim of the case deposed that the matter has already been amicably settled between them at the intervention of villagers. The informant cum alleged victim also stated that the case was filed due to misunderstanding and she no longer wants to proceed with the case.

7. It is seen that there is absolutely nothing in the depositions of the witnesses against the accused persons to implicate them 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 acquitted of the offences under sections 143/341/294/323/149 IPC alleged against them. They be set at liberty forthwith. Their bail bonds are extended for a period of six months from today in view of section 437A CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 27th day of March, 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. Abdul Hasim

P.W.-2: Md. Umar Faruque

P.W.-3: Musstt Jyoshnara Begum

(F) DEFENCE WITNESSES:

None

(G) COURT WITNESSES:

None

Chief Judicial Magistrate, Morigaon