

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

G.R. Case No.629/16

U/S 341/294/323/34 IPC

STATE OF ASSAM

-VS-

1. MD. ABUL HUSSAIN, S/O. LT. ABDUL MAZID.

2. MD. SULTAN ALI, S/O MD. SHARAFAT ALI.

BOTH R/O TATIKATA PATHAR, WARD NO.1, 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. S. AHMED, LEARNED ADVOCATE.

EVIDENCE RECORDED ON: - 24.01.2019, 19.06.2019.

ARGUMENT HEARD ON: - 19.06.2019.

JUDGMENT DELIVERED ON: - 19.06.2019.

JUDGMENT

1. The brief of the prosecution story is that one Md. Abdul Karim filed an FIR before the Officer-in-Charge, Moirabari P.S. on 25.03.2016, alleging inter alia that on 22.03.2016, at about 06.30 pm, while the informant was going to Sagol Tala, through a road which is near the house of the accused persons, namely, Md. Hussain Ali and Md.Sultan Ali, both the accused persons wrongfully restrained the informant, dragged

him from the road to their house and tied him up. When the wife of the informant heard about the incident she rescued the informant with the help of the police from Bhelowguri P/S. Hence, the case.

2. On receipt of the ejahar, Moirabari P.S. Case No. 69/16 u/s 341/342/294/34, IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against both the FIR-named accused persons u/s 341/342/294/506 of the IPC.

3. On receipt of summons the accused persons appeared before the court and copies of relevant documents were furnished to the accused persons under section 207 of Cr. P.C. On finding sufficient prima facie materials to presume that the accused persons had committed offences u/s 341/342/294/506/34 of IPC, 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. After closure of prosecution evidence, statement under section 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. **Points for determination.**

I. Whether on 22.03.2016, at about 06.30 pm, at the house of the accused persons, the accused persons, in furtherance of their common intention, wrongfully restrained the informant/victim, Md. Abdul Karim, and hence committed an offence u/s 341/34, IPC?

II. Whether on the same date, time and place, the accused persons, in furtherance of their common intention, wrongfully confined the informant/victim, Md. Abdul Karim, and hence committed an offence u/s 342/34, IPC?

III. Whether on the same date, time and place, the accused persons, in furtherance of their common intention, uttered obscene words at or near a public place, and hence committed an offence u/s 294/34, IPC?

IV. Whether on the same date, time and place, the accused persons, in furtherance of their common intention, committed criminal intimidation by threatening to cause injury to the person of the informant, and hence committed an offence u/s 506/34, IPC?

Discussion, Decision and Reasons thereof:-

6. In this case prosecution examined only 3 (three) witnesses. One Musstt. Taksia Begum was examined as PW-1, the informant/victim, Md. Abdul Karim, was examined as PW-2 and one Musstt. Roushanara Begum was examined as PW-3 to prove the charges against the accused persons.

7. *In her examination-in-chief PW-1 Musstt. Taksia Begum*, deposed that she knows the informant as he is her neighbor. PW-2 knows both the accused persons as the accused Abul Hussain is her husband and the other accused Sultan Ali is her nephew. She further deposed that the incident had taken place one day in the year 2016, at about 06.00 pm, at her house. Before the incident the informant had taken Rs.80,000/- (Rupees Eighty Thousand only) from the accused persons and on the date of the incident when the informant was passing by their house, the accused persons asked the informant as to why he was not returning their money. Thereafter, a verbal altercation took place between both sides and as such the informant filed the instant case against the accused persons. Defence declined to cross-examine this witness on her deposition.

8. *In his examination-in-chief PW-2/informant, Md. Abdul Karim*, deposed that he is the informant and he knows the accused persons standing on the dock as they are his co-villagers. He further deposed that he had filed this case about 5-6 (five to six) years prior to the date of his deposition. On the date of the incident he had a verbal altercation with the accused persons over a matter of money and he filed the instant case in that misunderstanding.

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

10. *In her examination-in-chief PW-3, Musstt. Roushanara Begum*, deposed that the informant is her husband and she knows the accused persons standing on the dock. She further deposed that the informant had filed the instant case about 5-6 (five to six) years prior to the date of her deposition. On the date of the incident the

informant had a verbal altercation with the accused persons over a matter of money and the informant filed the instant case in that misunderstanding.

11. *During her cross-examination PW-3* stated that she does not have any objection if the accused persons are acquitted.

12. On perusal of evidence recorded by the prosecution side, it appears that the PW-2/informant/victim and PW-3 are not willing to proceed with the case further and they stated that the case was filed out of some misunderstandings. PW-1 has also not stated any incriminating materials against the accused persons. Both PW-2/informant/victim and PW-3 have stated that they do not have any objection if the accused persons are acquitted.

13. In view of the evidence recorded the Ld. APP verbally prayed to close PWs as the prosecution declined to adduce further evidence. This being so there is nothing in the evidence of the prosecution warranting conviction of the accused persons u/s 341/342/294/506/34 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 charge U/S 341/342/294/506/34 IPC against the accused persons beyond reasonable doubt. Accordingly, the accused persons are found not guilty of the offences 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 341/342/294/506/34 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, CrPC.

17. Given under my hand & seal of this Court and delivered in the open Court on this 19th day of June, 2019.

Dictated and corrected by me

(ANAMIKA BARMAN)

(Miss. Anamika Barman)

Judicial Magistrate First Class, Morigaon

Judicial Magistrate First Class

Morigaon, Assam

APPENDIX

PROSECUTION WITNESSES:

1. P.W.-1, MUSSTT. TAKSIA BEGUM.
2. P.W.-2, MD. ABDUL KARIM.
3. P.W.-3, MUSSTT. ROUSHANARA BEGUM.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

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