

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.2437/2015

State

Vs.

- 1. Md. Zakir Hussain
Son of Md. Alimuddin**
 - 2. Musstt. Manowara Begum
Wife of Md. Zakir Hussain**
 - 3. Musstt. Husnara Khaton
Wife of Md. Sarifuddin**
- All are residents of village: Soruchala
Ward No.6, P.S.- Moirabari,
District- Morigaon, Assam**

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

For the state: Mrs. A. Kakati, Asstt. P.P.
For the defense: Mr. P. Pator & Ms. K. Deka, Advocates

Charge framed u/s: 447/294/323/354/506(II)/34 of IPC
Evidence recorded on: 8-8-2018 and 14-2-2019
Statement of defense recorded on: 27-2-2019
Argument heard on: 27-2-2019
Judgment delivered on: 12-3-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt. Shajida Khatun lodged an ejahar in the Moirabari police station against the accused persons namely Md. Jakir Hussain, Musstt. Manowara Begum and Musstt. Husnara Khatun alleging there in that on 27-10-2015, at about 9.00 a.m., at the instigation of accused Md. Jakir Hussain, accused Musstt. Manowara Begum and Musstt. Husnara Khatun illegally came on to the courtyard of the house of the aforementioned informant, threw the aforementioned informant on the ground of the courtyard, dragged her over the ground by pulling her hair, outraged her modesty by tearing her wearing apparel, beat her with stones and thereby caused severe injuries on her face, head and chest. When the accused persons intended to kill the aforementioned

informant, she started screaming and on hearing her scream, her neighbours gathered at the scene. Thereafter, the accused persons fled away from the scene and the aforementioned informant was able to save herself.

2. The ejahar was received in the Moirabari police station on 27-10-2015 and a Moirabari police station case No.261/2015 under sections 447/354/325/506 of IPC was registered and one sub inspector of police Sri H. Bhuyan was assigned to investigate the case by the Officer-In-Charge of the said police station. On completion of investigation, police submitted charge sheet against the accused persons namely Md. Jakir Hussain, Musstt. Manowara Begum and Musstt. Husnara Khatun under sections 447/294/323/506 IPC.

3. On appearance of the accused persons before Court, copies of all relevant documents were furnished to them under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offences under sections 447/294/323/354/506(II)/34 of IPC being found against the above mentioned accused persons, formal charge under sections 447/294/323/354/506(II)/34 of IPC was framed, which was read over and 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 Musstt. Shajida Khatun, Md. Ramjan Ali and Musstt. Majida Khatun, as PW-1, PW-2 and PW-3, respectively. The prosecution also proved the ejahar as exhibit-1 and the signature of Musstt. Shajida Khatun thereon as exhibit-1 (1).

5. After examination of PW-1 all the three accused persons and the informant-cum-alleged victim Musstt. Shajida Khatun filed a petition jointly on 14-2-2019 praying for disposal of the case on the ground of amicable settlement already arrived at by them at the intervention of the local villagers. On the basis of the said petition, the offences under sections 447/323/506(II) of IPC were settled on compromise as the aforesaid three offences are compoundable in nature. Thereafter, the case proceeded in respect of the remaining two offences under sections 294/354/34 of IPC. The accused persons while under examination under section 313 CrPC denied all the allegations leveled against them. Defense side refused to adduce any evidence.

6. 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 27-10-2015, at about 9.00 a.m. at village Soruchala, Ward No.6, under Moirabari police station of Morigaon district, in furtherance of their common intention, uttered obscene words in a public place to the annoyance of Musstt. Shajida Khatun and thereby committed an offence punishable under section 294 read with section 34 of the Indian Penal Code?
- ii. Whether the accused persons on or about the same date, time and place, in furtherance of their common intention, assaulted Musstt. Shajida Khatun intending to outrage her modesty and thereby committed an offence punishable under section 354 read with section 34 of the Indian Penal Code?

Discussion of evidence, decision and reasons therefor:

7. So far as offence under section 294 IPC is concerned, there is not a single statement in the evidence of PW-1. The remaining two witnesses did not support her at all with regard to the said offence also. So far as allegation of offence under sections 354 of IPC is concerned, the PW-1, though indicated that her modesty was outraged by tearing her wearing apparel; however, she was not supported by the remaining two PWs in this regard also. Therefore, it would be unsafe to rely on the single statement of the PW-1. None of the remaining two PWs has indicated anything implicating the accused persons. According to both of them, the matter has already been amicably settled at the intervention of the villagers. Hence, it appears that after the deposition of PW-1, the parties amicably settled the matter for which the remaining two PWs did not support the PW-1 with regard to the allegations leveled against the accused persons.

8. In view of the discussion above and the depositions of the PW-2 and PW-3 that the matter has already been amicably settled amongst the accused persons and the alleged victim-cum-informant of the case at the intervention of the local villagers, 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.

9. For the aforesaid reasons and discussion, the points for determination are answered in the negative.
10. The prosecution has failed to prove the case against the accused persons. They are found not guilty and accordingly acquitted of the offences under sections 294/354/34 of IPC. They be set at liberty forthwith. Their bail bonds are extended for a period of six months from today in view of section 437A of CrPC.
11. The four numbers of small sized stones seized vide seizure list bearing MR No. Nil/15 be disposed of in any manner preferred by the PSI, Morigaon court.
12. The judgment is pronounced in open Court and given under my hand and seal on this 12th day of March, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1 (1): Signature of Musstt. Shajida Khatun

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Musstt. Shajida Khatun

P.W.-2: Md. Ramjan Ali

P.W.-3: Musstt. Majida Khatun

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon