

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

**G.R. CASE NO.2515/2018
(PRC No.900/2018)**

State

Vs.

**Md. Rahul Hoque
Son of Md. Nurul Hoque
Resident of village: Morimusalmangaon
P.S.- Morigaon,
District- Morigaon, Assam**

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

For the state: Mr. P. Hazarika, Asstt. P.P.
For the defense: Md. J. A. Bhutto, Advocate

Charge framed: u/s 341/294/323/392 of IPC
Evidence recorded on: 31-10-2019
Argument heard on: 31-10-2019
Judgment delivered on: 31-10-2019

JUDGMENT

1. The prosecution case in brief is that one Sri Mintu Deka lodged an ejahar in the Morigaon police station against the accused Md. Rahul Hoque alleging therein that 20-9-2018 at about 11.00/12.00 a.m., while the informant, after withdrawing money from an ATM at Morigaon, was returning home, one unknown youth restrained him at Hekenamara cross road, near a morning market. Thereafter, the accused hurled obscene abuses at him and kept beating him, for about 200 meters, on the road. The accused also tried to kill him and snatched away Rs.13,000/- from him.

2. The said ejahar was received in the Morigaon police station on 20-9-2018 and a Morigaon police station case No.462/2018 under sections 341/294/323/379 of IPC was registered and one sub inspector of police Sri Bhupen Kalita 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 Md. Rahul Hoque under sections 341/323/294/379 of IPC.

3. On appearance before court copies of all relevant documents were furnished to the accused person under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offence under sections 341/294/323/392 of IPC being found against the above mentioned accused person, formal charge under sections 341/294/323/392 IPC was framed, which was read over and explained to the accused Md. Rahul Hoque to which he pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 1 (one) witness namely Sri Mintu Deka, as PW-1, who is the informant cum alleged victim of the case. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). Examination of the accused person under section 313 CrPC was dispensed with for lack incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the argument of Mr. Prashujyamo Hazarika, learned APP as well as the argument of Md. Julfikar Ali Bhutto, learned defence counsel. I have also perused the case record and considered the same. The points for determination are as under:

- i. Whether the accused person, on or about 20-9-2018, at about 11.00 a.m./12.00 noon, at Hekenamara, under Morigaon police station of Morigaon district, wrongfully restrained Sri Mintu Deka, so as to prevent him from proceeding in any direction in which he had a right to proceed and thereby committed an offence punishable under section 341 of IPC?
- ii. Whether the accused person, on or about the same date, time and place, uttered obscene words in a public place to the annoyance of Sri Mintu Deka and thereby committed an offence punishable under section 294 of IPC?
- iii. Whether the accused person, on or about the same date, time and place, voluntarily caused hurt to Sri Mintu Deka and thereby committed an offence punishable under section 323 IPC?
- iv. Whether the accused person, on or about the same date, time and place, robbed Sri Mintu Deka of Rs.13,000/- and thereby committed an offence punishable under section 392 IPC?

Discussion of evidence, decision and reasons therefor:

6. The informant cum alleged victim, as PW-1, in his deposition has not supported his own case and did not implicate the accused with the alleged offence. The PW-1 Sri Mintu Deka deposed that that matter has already been amicably settled between them at the intervention of the local villagers. According to the PW-1, the case was filed due to misunderstanding and as such, he no longer wants to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of the witness against the accused person to implicate him with the alleged offence. The key witness, who is the informant cum alleged victim of the case, did not implicate the accused person with the alleged offence. In view of the deposition of the witness, 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 reason and discussion the points for determination are answered in the negative.

9. The prosecution has failed to prove the case against the accused person. As such, the accused person is found not guilty and accordingly acquitted of offence under sections 341/294/323/392 IPC alleged against him. He be set at liberty forthwith. His bail bond shall remain in force for six months from today in view of section 437A of CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 31st day of October, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1(1): Signature of Sri Mintu Deka

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Sri Mintu Deka

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon