

PRC 190/18
State
Vs
Dinesh Barman & others

IN THE COURT OF JUDICIAL MAGISTRATE 1st CLASS, NALBARI

Case No. PRC 190/2018 u/s 447/294/34 IPC

STATE

-Vs-

DINESH BARMAN & OTHERS..... Accused

Present: RUBINA YASMIN, A. J. S.

Advocates appeared:

Mrs Manika Chakraborty.....for the State.

Mr. Phanidhar Dekha.....for the accused.

Date of prosecution evidence –28.09.18

Date of argument – 28.09.18

Date of judgment – 28.09.18

Judgment

1. Mr. Prafulla Barman initiated the instant case by filing written 'ejahar' before the O/C, Mukalmaua P.S. on 05.04.18. Prosecution case in brief is that, on 04.04.18, at about 8:30 p.m. when the informant's cousin Nigen Dekha came to his house the accused person entered into his premise and intimidated him to open the door and when the informant refused to do so the accused persons unlawfully broke the door and entered into the room and beat him with a stick.
2. On receipt of the 'ejahar', police has registered the case as Nalbari P.S. case No. 122/18 u/s 447/325/34 IPC and investigated the matter.

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On completion of investigation, police filed charge sheet against the accused persons Dinesh Barman, Arun Barman and Apurba Barman u/s 447/294/34 IPC.

3. During trial, accused persons entered the appearance on receipt of summons from the court and they were allowed to go on bail. Relevant copies of the case were furnished to them u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, sufficient materials were found against the accused person u/s 447/294/34 IPC. Particulars of the offence were explained to the accused to which they pleaded not guilty and claimed to be tried.
4. Prosecution in support of the case examined one witness. Defence side declined to adduce any witness in support of their claim. The examination of the accused person u/s 313 of Cr.P.C. was dispensed with as no incriminating materials were found against him.
5. I have heard argument of both sides.

Points For Determination

6. Upon hearing and perusal of the record, I have framed the following points for determination:
 1. Whether the accused persons on 04.04.18 at about 8:30 p.m. in furtherance of common intention committed criminal trespass and thereby committed an offence punishable u/s 447 IPC?
 2. Whether the accused persons on same date, time and place in furtherance of common intention did any obscene act in a public place to the annoyance to informant/victim and thereby committed an offence punishable u/s 294 IPC?

Discussion, Decision and Reasons thereof

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7. I have carefully gone through the entire evidence on record and materials placed before me.
8. PW 1 Prafulla Barman who is the informant as well as the victim of the case deposed in her evidence that due to some misunderstanding he has filed the case and that they have now settled the matter.
9. From the evidence of the prosecution witness it appears that the informant is not inclined to prosecute the accused persons. Thus no incriminating material is found against the accused person on the basis of the little evidence deposed by the informant. Moreover both sides have submitted that the parties hold no grudge or animosity towards one another.
10. Situated thus, I find that the prosecution side has miserably failed to implicate the accused person of any offence. Accordingly the accused persons Dinesh Barman, Arun Barman and Apurba Barman are held not guilty of the offence punishable under Section 447/294/34 IPC and accordingly they are acquitted and set at liberty forthwith.
11. The bail bond furnished on behalf of the accused persons shall remain in force for further period of 6 months.
12. The seized articles if any be given in zimma as per law in due course.

Given under my hand and seal of this court on this 28th day of September, 2018.

Rubina Yasmin
J.M.F.C. Nalbari

APPENDIX

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Prosecution witness:-

PW 1 –Prafulla Barman

Defence witness:-

Nil

Exhibits:-

Nil

Defence Exhibits:-

Nil

Rubina Yasmin

JMFC, Nalbari