

P.R.C.CASE NO: 342 of 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: HAREN DAS

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DISTRICT: NALBARI
IN THE COURT OF THE SUB DIVISIONAL JUDICIAL MAGISTRATE:::::NALBARI

P.R.C.CASE NO:342/18
U/S 341/294/323 IPC

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: (1) HAREN DAS

PRESENT : SHALMA AZAZ, S.D.J.M., (S) NALBARI.

ADVOCATE FOR THE PROSECUTION: Smti. M. Chakroverty.

ADVOCATE FOR THE ACCUSED: Smit. L. Lahkar.

OFFENCE EXPLAINED ON: 13.12.18

EVIDENCE RECORDED ON: 12.02.19

ARGUMENT HEARD ON: 12.02.19

JUDGMENT DELIVERED ON: 12.02.19

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Dhamdhoma Police Outpost, by the informant, Smti. Jonali Kalita on 20.05.18, against the accused Haren Das to the effect that, on 19.05.18 at 10 p.m, in the night while the husband of the informant Jayanta Kalita was standing on the road at that moment all of a sudden the accused person came to the place and gave fist and blow and her husband raised hue and cry. On hearing hue and cry of her husband, she came out, and the accused person hit her by a torch light as a result of which she sustained grievous injuries, and when she raised hue and cry to wake up the neighboring people then the accused person flee away from the place. Hence, the instant case.
2. The police upon receipt of the ejahar registered it as Ghagrapar Police Station case No.114/18 under sections 325/323 IPC and started investigation in the case. After completion of the investigation the police submitted charge sheet against the accused person namely, Haren Das under section 341/294/323 IPC.
3. The accused person was called upon to enter trial and after causing his appearance the copies of the relevant documents were furnished to the accused. Upon hearing and on perusal of record the particulars of offence under section 341/294/323 IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined the informant Smti Jonali Kalita and her husband/victim, Sri Jayanta Kalita. The prosecution prayed to close the evidence of prosecution side, as the principal witnesses, i.e the informant and the victim, did not support the case of the prosecution and the examination of the other witnesses is not required. I have perused the record and it appears that the informant and the victim, were the principal witnesses for the prosecution; hence when they have not supported the case of the prosecution then further examination of other witnesses would merely be a futile exercise as it will not change the merit of the case; as such the evidence of the prosecution side is closed.

5. As there is no incriminating material against the accused person, the statement of the accused person under section 313 of CrPC, is dispensed with.
6. I have heard both the parties. I have heard the learned counsel for the accused who submitted that there is no material against the accused person; as such the accused person need to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following points for determination-
 - (1) Whether the accused person, on 19.05.18 at about 10 pm, in the night, at village Mohina under Ghagrapar P.S., wrongfully restrained Jayanta Kalita, the husband of the informant in which direction he has every right to proceed and thereby committed the offence under section 341 of IPC?
 - (2) Whether the accused person, on 19.05.18 at about 10 pm, in the night, at village Mohina under Ghagrapar P.S., voluntarily caused hurt to informant Smti. Jonali Kalita and her husband Jayanta Kalita and thereby committed the offence under section 323 of IPC?
 - (3) Whether the accused person, on 19.05.18 at about 10 pm, in the night, at village Mohina under Ghagrapar P.S., used obscene language against the informant and victim, in a public place , causing annoyance to the public and thereby committed the offence under section 294 of IPC?
8. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

DISCUSSION, DECISION AND REASONS FOR THE DECISION:

POINT FOR DETERMINATION NOS.1, 2 &3:

9. All the points for determination are taken together for discussion as they are intricately connected to each other.

10. The prosecution has examined two witnesses in support of its case, i.e the alleged informant and victim of this case.
11. The PW1, Smti. Jonali Kalita, who is the informant/ victim of this case, has stated that she knows the accused person, as the accused person lived near her house. The incident occurred around one year ago, in the evening, and at that time, she was in front of her house and she saw that an altercation was going on between her husband Jayanta Kalita and the accused person. Thereafter she went to the place of occurrence and tried to stop the altercation and while doing so they shoved each other and as a result of which, she sustained minor injury and after that out of anger and misunderstanding she lodged the ejahar against the accused person. Later on, after talking with each other they have resolved their misunderstanding. Exhibit-1 is the ejahar and Ext.1(1) is her signature.

In cross examination, the PW1 admitted that she does not know what is written in the ejahar, she did not read it. The PW1 also admitted that the accused persons did not assault her nor used obscene language. She further stated that they simply had an altercation, and presently she has no grievance against the accused person.

12. The PW2 Jayanta Kalita , who is the victim , has stated that, the incident took place around six months ago, in the evening, and at that time a cricket match was going on and he and the accused person were watching together and regarding the match he had an altercation with the accused person, and his wife saw and tried to stop the altercation and while doing so they have shoved each other and after that out of anger and misunderstanding his wife lodged the ejahar against the accused person. Later on, after talking with each other their misunderstanding was resolved.

In cross examination, the PW2 admitted that the accused person did not assault her nor used obscene language. He further stated that they simply had an altercation on trivial matter and out of misunderstanding his wife lodged the ejahar. He further stated that he has no grievance against the accused person.

13. On perusal of the case record, it is seen that the accused person and the husband of the informant had an altercation regarding a trivial matter of cricket . The perusal of the evidence of the PW1 and PW2 reveals that they had not at all supported the prosecution version and according to them, PW1 had lodged the ejahar out of anger and in misunderstanding. The PW1 and PW2 have specifically admitted that the accused person did not commit the alleged offences, rather they only had an altercation; hence it is held that the prosecution has failed to establish the charges against the accused person.
14. In view of the above discussion it is held that the prosecution has failed to prove the points for determination.
15. *DECISION:* The prosecution has failed to prove the charges against the accused person under section 341/294/323 of IPC, and therefore, the points for determination are answered in negative, in favour of the accused person.

ORDER

16. In view of the discussions made above and the decision reached therein it is held that the prosecution has failed to prove the charges against the accused person, namely Sri Haren Das; as such the accused person is acquitted of the charges under section 341/294/323 IPC and he is set at liberty.
17. The bail bond of the accused person and his surety shall remain in force for six months from today.
18. The seized articles be disposed off as per law
19. The case is disposed of on contest without cost.

Given under my hand and the seal of this court on this the 12th day of February, 2019 at Nalbari.

Shalma Azaz,

S.D.J.M., (S), Nalbari

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APPENDIX

PROSECUTION EXHIBITS:

EXHIBIT 1 - EJA HAR

DEFENCE EXHIBITS

NONE

PROSECUTION WITNESSES

- 1) SMTI JONALI KALITA.
- 2) SRI JAYANTA KALITA

DEFENCE WITNESSES

NONE

Shalma Azaz,
S.D.J.M., (S),
Nalbari.

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