

P.R.C.CASE NO: 78 of 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SOHRAB ALI & ORS

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

P.R.C.CASE NO:78/18
U/S 447/294/323/34 IPC

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: (1) SOHRAB ALI
(2) JOANUR ALI

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

ADVOCATE FOR THE PROSECUTION: Smti. M. Chakroverty.

ADVOCATE FOR THE ACCUSED: Sri. P. Sarma.

OFFENCE EXPLAINED ON: 12.10.18

EVIDENCE RECORDED ON: 21.01.19

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 Nalbari Police station, by the informant/ victim, Miss Jalima Begum on 14.02.17, against the accused persons, Md., Sohrab Ali, Sri Idris Ali and Joanur Ali to the effect that, on 13.02.17 at 5:30 p.m, when her husband was not present at his house, at that time the accused persons chased her towards her homestead and accused Sohrab Ali grabbed her hair and threw her on the ground and grabbed her and tore her blouse and sari and the other accused person assaulted her by kicks and punches, as a result of which she sustained injuries. The accused persons also unplugged the boundary fancying of the land of the informant.
2. The police upon receipt of the ejahar registered it as Nalbari Police Station case No.102/17 under sections 447/354(B)/325/427/34 IPC and started investigation in the case. After completion of the investigation the police submitted charge sheet against the accused persons namely, Sohrab Ali and Joanur Ali under section 447/294/323/34 IPC.
3. The accused persons were called upon to enter trial and after causing their appearance the copies of the relevant documents were furnished to the accused. On perusal of record the particulars of offence under section 447/294/323/34 IPC were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined the informant/victim. The prosecution prayed to close the evidence of prosecution side, as the principal witness, i.e the informant/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/victim was the principal witness for the prosecution; hence when he has 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 persons, the statement of the accused persons 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 persons; as such the accused persons need to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following points for determination-
 - (1) Whether the accused persons, on 13.02.17 at about 5:30 pm, in the evening, at village Suradi under Nalbari P.S., in furtherance of their common intention committed criminal trespass by entering into the property of the informant Miss Jalima Begum with intent to commit an offence and thereby committed the offence under section 447 of IPC?
 - (2) Whether the accused persons, on 13.02.17 at about 5:30 pm, in the evening, at village Suradi under Nalbari P.S., in furtherance of their common intention voluntarily caused hurt to informant Miss Jalima Begum and thereby committed the offence under section 323 of IPC?
 - (3) Whether the accused persons, on 13.02.17 at about 5:30 pm, in the evening, at village Suradi under Nalbari P.S., in furtherance of their common intention committed an obscene act causing annoyance to others 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 only one witness in support of its case, i.e the alleged informant/ victim.
11. The PW1, Miss Jalima Begum, who is the informant/victim of this case, has stated that the accused persons are her relatives. About two years prior she had a domestic dispute with the accused persons and later out of misunderstanding she had lodged the ejahar against the accused persons. She has no objection if the accused persons are acquitted from the instant case.
12. On perusal of the case record, it is seen that the accused persons and the informant had an dispute regarding domestic matter. The perusal of the evidence of the PW1 reveals that she had not at all supported the prosecution version and according to her, she had lodged the ejahar out of misunderstanding. The PW1 has specifically admitted that the accused persons did not commit the alleged offences; hence it is held that the prosecution has failed to establish the charges against the accused persons.
13. In view of the above discussion it is held that the prosecution has failed to prove the points for determination.
14. DECISION: The prosecution has failed to prove the charges against the accused persons under section 447/294/323/34 of IPC, and therefore, the point for determinations are answered in negative, in favour of the accused persons.

ORDER

15. 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 persons, namely Md. Sohrab Ali and Joanur Ali; as such the accused persons are acquitted of the charges under section 447/294/323/34 IPC and they are set at liberty.
16. The bail bond of the accused persons and their surety shall remain in force for six months from today.

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17. 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:

NONE

DEFENCE EXHIBITS

NONE

PROSECUTION WITNESSES

1) Miss Jalima Begum

DEFENCE WITNESSES

NONE

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

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