

PRC No.697/18

::IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, NALBARI::

PRESENT : = Sri K.C. Boro, A.J.S.

Ref: *PRC No.697/18*

State

-vs-

Ratul Baishya

S/o- Lt. Ani Ram Baishya

Village Marowa

PS Nalbari

Dist. Nalbari, Assam Accused person.

u/s-447/323/352/294 IPC

EVIDENCE RECORDED ON : 18.07.19.

ARGUMENTS HEARD ON : 18.07.19

JUDGMENT DELIVERED ON : 18.07.19

ADVOCATES APPEARED :

For the State : Mr. R. Patowary, Ld. A.P.P.

For the Accused : Mr. D. Saloi, Ld. Advocate.

J U D G M E N T

1. The fact of case, in a brief, is that an FIR was filed on 08.07.13 before the O.C of Nalbari PS by informant Dharmeswar Hazarika against the accused person namely Ratul Baishya alleging inter alia that on 08.07.13, at about 6.00 pm, in the evening, the above mentioned accused person came to his residence inebriated condition and broke the glass of his residence. When he along with his wife Pranita and son Dipankar Baishya prohibited the accused, accused assaulted him on his right hand and near eye by means of bamboo

lathi. Accused also assaulted his wife and son. The informant further alleged that earlier also, accused used to abuse them inebriated condition by using filthy languages. Hence, the case.

2. On receiving the case, Nalbari PS registered Nalbari PS Case No.537/13 u/s-447/325/427/294 IPC and started investigation. On completion of investigation, the I.O laid charge-sheet against the accused person namely Ratul Baishya u/s-447/323/352/294 IPC vide CS No.401/13 dated 30.09.13.

3. In pursuance of the process issued, the accused person appeared before the court and on his appearance the copies of the case as per the mandate of law u/s-207 Cr.P.C. were furnished to the accused person. Thereupon prima facie case was found against the accused person u/s-447/323/352/294 IPC and the substance of accusation u/s-447/323/352/294 IPC was explained to the accused person and he was asked whether he would plead guilty of the offences charged or claimed to be tried. He had pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution side examined two (2) witnesses. 313 Cr.P.C statement of accused person was dispensed with. The defence side declined to adduce any evidence.

5. I have heard the argument of both the sides.

POINTS FOR DETERMINATION

- Whether the accused person namely Ratul Baishya on 08.07.13 at about 6.00 pm, at village Marowa under Nalbari PS committed criminal trespass by entering into the homestead of informant Dharmeswar Hazarika and thereby committed an offence punishable u/s 447 IPC ?
- Whether the accused person namely Ratul Baishya on 08.07.13 at about 6.00 pm, at village Marowa under Nalbari PS voluntarily caused hurt to informant and thereby committed an offence punishable u/s-323 I.P.C.?

- Whether the accused person namely Ratul Baishya on 08.07.13 at about 6.00 pm, at village Marowa under Nalbari PS used criminal force upon the wife and son of the informant and thereby committed an offence punishable u/s-352 I.P.C.?
- Whether the accused person namely Ratul Baishya on 08.07.13 at about 6.00 pm, at village Marowa under Nalbari PS uttered obscene words in a public place causing annoyance to informant and his family members and thereby committed an offence punishable u/s-294 I.P.C.?

DECISION AND REASONS THEREOF:

6. PW.1 is Pranita Baishya. She deposed that the incident took place in the year 2013, one day, during the evening time. At that time, there was an altercation between her son and the accused. She further stated that they have amicably settled the matter outside the Court. She also stated that her husband i.e. informant has expired about two years ago. Ext.1 is the FIR and Ext.1(1) is the signature of her demised husband.
7. Defence declined to cross-examine this witness.
8. PW.2 is Dipankar Baishya. He deposed that informant is his father and accused is his paternal uncle. The incident occurred in the year 2013, one day, in the evening time. He stated that an altercation had taken place between him and the accused and now they have amicably settled the dispute outside the Court.
9. Defence declined to cross-examine this witness.
10. These are the materials on record.
11. From the materials on record, it is found that the informant of this case has expired. The prosecution witnesses viz. PW.1 and PW.2 have not implicated the accused person of commission of offence u/s-447/352/323/294 IPC. They have merely stated that on the day of the incident, PW.2 had engaged into an altercation with the accused due to a trivial issue and later on, the informant filed the FIR.

The prosecution witnesses further stated that the matter has been amicably settled between the parties. They have not stated anything incriminating material regarding the incident against the accused person.

12. The evidence on record does not lucidly portray the necessary elements required to constitute offences u/s-447/352/323/294 IPC. The prosecution has failed to prove the guilt of the accused person beyond all reasonable doubt.

13. In the backdrop of the entire evidence on record and taking into account the facts and circumstances of the case, the accused person namely Ratul Baishya is acquitted of the offences u/s-447/352/323/294 IPC and set at liberty forthwith.

14. Bail bonds will stand cancelled after expiry of the appellate period.

15. Judgment is written in separate sheets and delivered in open court.

Given under my hand and seal of this court on this the 18th day of July, 2019.

(Sri K.C. Boro)
Chief Judicial Magistrate,
Nalbari

Dictated and corrected by me

(Sri K.C. Boro)
Chief Judicial Magistrate,
Nalbari

Jitul

APPENDIX:

Witnesses for the prosecution

- PW.1 - Pranita Baishya.
PW.2 - Dipankar Baishya.

Witnesses for the defence

None

Prosecution Exhibits

- Ext.1 - Ejahar.
Ext.1(1) - Signature of Dharmeswar Hazarika.

Defence Exhibits

None

(Sri K.C. Boro)
Chief Judicial Magistrate,
Nalbari