

IN THE COURT OF MUNSIFF CUM JUDICIAL MAGISTRATE FIRST CLASS::TIHU
DISTRICT: NALBARI

PRC Case No. 79/19
U/s. 447/323/354(B)/34 IPC

State of Assam

-vs-

1. Smti. Manika devi
W/O Sri Bhupen Sarma
 2. Gopeswar Kalita
S/O Sri Badan Ch. Kalita
 3. Sri Dhanmani Kalita
S/O Lt Felon Kalita
- All are resident of:
Vill: Haribhanga
PS. Tihu, Dist. Nalbari ... Accused persons

Present: Sri Anurup Bordoloi, AJS
Munsiff cum JMFC, Tihu.

Advocates appeared:

For the State : Mr. P. Barman, A.P.P.

For the Defence: Mr. B. Kakati, Adv.

Dates of Evidence : 09.06.19

Date of Argument : 30.07.19

Date of Judgment : 30.07.19

J U D G M E N T

1. Prosecution case, in brief, is that on 15.04.19, one Smt. Smti. Babita Devi, lodged an ejarah before the Officer-in-Charge, Tihu P.S. alleging inter-alia that on that day itself at about 2:30 PM, the accused Smt. Manika Devi rebuked the informant with

obscene words at the courtyard of the informant's house. Thereafter, the other accused persons, namely, Sri Mrinal Kalita, Sri Gopeswar Kalita and Sri Dhanmoni Kalita wrongfully trespassed into the courtyard of informant's house. Thereafter, the accused Sri Dhanmoni Kalita floored the informant by holding her hair and the accused Sri Gopeswar Kalita assaulted the informant as a result of which the informant suffered serious injuries. The accused Sri Dhanmoni Kalita even touched the informant inappropriately on her breast. The accused persons also threatened to kill the informant. Hence, the case.

2. On receipt of the ejahar, Tihu P.S. Case No. 64/19 u/s 120(B)/420/468/294/506/34 IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused Smt. Manika Devi, Sri Gopeswar Kalita and Sri Dhanmani Kalita u/s 447/323/354(B)/34 I.P.C.

3. On appearance before the court, necessary copies were furnished to the accused persons. Perusal of case record reveals prima facie materials against the accused persons Sri Gopeswar Kalita and Sri Dhanmoni Kalita u/s 506(II)/447/323/34 IPC, Sri Dhanmoni Kalita u/s 354 B IPC and Smt. Manika Devi u/s 294 I.P.C. Accordingly, charge was framed against the accused persons Sri Gopeswar Kalita and Sri Dhanmoni Kalita under the above mentioned sections which were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. Also particulars of offence u/s 294 IPC were read over and explained to the accused Smt. Manika Devi to which she pleaded not guilty and claimed to be tried.

4. In support of its case, prosecution side examined 7 (seven) witnesses. The statement of the accused persons u/s 313 CrPC was recorded wherein they took the plea of denial.

5. I have heard the arguments of the learned counsels for both the sides at length, gone through the case record and perused the evidence carefully.

POINTS FOR DETERMINATION ARE:

6. *(i) Whether the accused persons, namely, Sri Dhanmoni Kalita and Sri Gopeswar Kalita, on 15.04.19, at about 02.30 PM, in furtherance of their common intention, committed criminal trespass by entering into the house campus of the*

informant/victim, which was also in the possession of the informant, with an intent to commit an offence, and thereby committed an offence punishable u/s 447/34 IPC?

(ii) Whether the accused persons, namely, Sri Dhanmoni Kalita and Sri Gopeswar Kalita, on 15.04.19, at about 02.30 PM, in furtherance of their common intention, voluntarily caused hurt to the informant/victim, and thereby committed an offence punishable u/s 323/34 IPC?

(iii) Whether the accused persons, namely, Sri Dhanmoni Kalita and Sri Gopeswar Kalita, on 15.04.19, at about 02.30 PM, in furtherance of their common intention, committed criminal intimidation by threatening to kill the informant/victim, and thereby committed an offence punishable u/s 506(II)/34 IPC?

(iv) Whether the accused person, namely, Smt. Manika Devi, on 15.04.19, at about 02.30 PM, rebuked the informant with obscene language at or near a public place, and thereby committed an offence punishable u/s 294 IPC?

(v) Whether the accused person, namely, Sri Dhanmoni Kalita, on 15.04.19, at about 02.30 PM, assaulted or used criminal force to the informant/victim with the intention of disrobing her, and thereby committed an offence punishable u/s 354-B IPC?

DISCUSSION, DECISION AND REASONS THEREON:

7. To prove its case the prosecution side adduced the evidence of the M.O. Dr. Karabi Das as PW-1, the informant/victim Smt. Babita Devi as PW-2, the informant's mother Smt. Puspa Devi as PW-3, Sri Sagar Biswas as PW-4, Sri Bhupen Sarma as PW-5, Smt. Kabita Kalita @ Sabita Kalita as PW 6 and Smt. Marami Kalita as PW-7.

8. Perusal of evidence reveals that the informant/victim/PW-2 deposed in her evidence that she had lodged the case against the accused person on some misunderstandings. The accused persons, namely, Sri Gopeswar Kalita and Sri Dhanmoni Kalita neither assaulted her nor threatened to kill her on the date of the incident. PW-2 also deposed that on the date of the incident an argument had taken place between the informant and the accused persons and PW 1 lodged the case on the spur of the moment. In her cross examination PW-2 stated that she has no objections if the accused persons are acquitted. PW-3 and PW-5, the mother and brother of the informant respectively, corroborated the evidence of PW 2 that she had

lodged the case against the accused persons out of some misunderstandings. PW 4, PW 6 and PW 7 deposed that they don't know anything about the incident.

9. In view of the evidences on record, I am of the considered opinion that there are no materials against the accused persons Sri Gopeswar Kalita and Sri Dhanmoni Kalita u/s 506(II)/447/323/34 IPC, against the accused Sri Dhanmoni Kalita u/s 354 B IPC and against the accused Smt. Manika Devi u/s 294 I.P.C. Hence, the prosecution side failed to prove its case against the accused persons beyond reasonable doubt. As such the accused persons deserves acquittal.

ORDER

10. In view of the conclusion made above, I hold the accused persons Sri Gopeswar Kalita and Sri Dhanmoni Kalita not guilty of the offence u/s 506(II)/447/323/34 IPC and Sri Dhanmoni Kalita and Smt. Manika Devi are not guilty u/s 354 B IPC and u/s 294 I.P.C respectively. Hence, the accused persons are acquitted from their respective charges. The accused persons are set at liberty forthwith.

15. The bail-bond of the accused persons shall remain in force for a period of six months from the date of this order.

16. The judgment is delivered in the open Court in presence of the accused and their learned Counsel.

Given under my hand and the seal of this court on this 30th day of July, 2019.

(Anurup Bordoloi)
Munsiff cum JMFC, Tihu

Typed by me,

(Anurup Bordoloi)
Munsiff cum JMFC, Tihu

:APPENDIX:

1. Prosecution witnesses:

PW 1 : Dr. Karabi Das

PW 2 : Smt. Babita Devi.

PW 3 : Smt. Puspa Devi.

PW 4 : Sri Sagar Biswas.

PW 5 : Sri Bhupen Sarma.

PW 6 : Smt. Kabita Kalita @ Sabita Kalita.

PW 7 : Smt. Marami Kalita

2. Prosecution exhibits: Nil

3. Defence witness: Nil

4. Defence Exhibits: Nil

Munsiff cum JMFC, Tihu