

P.R.C.CASE NO:538 of 2019  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: SRI NAYANJYOTI BARMAN & OTHERS

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

**P.R.C. CASE NO:538/19**  
**U/S 420/500/506/34 IPC**

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED PERSON: 1) SRI NAYANJYOTI BARMAN  
2) SRI DHRUBOJYOTI BARMAN  
3) SRI RITUPARNA BARMAN

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

ADVOCATE FOR THE PROSECUTION: SMTI. M. CHAKROVERTY.

ADVOCATE FOR THE ACCUSED: SRI P.SARMAH.

CHARGE FRAMED ON: 25.06.19

EVIDENCE RECORDED ON: 24.07.19.

ARGUMENT HEARD ON: 24.07.19

JUDGMENT DELIVERED ON: 24.07.19

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### **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, Smti. Manisha Kalita on 20.04.18, against the accused Sri Nayanjyoti Barman, Sri Dhrubajyoti Barman and Sri Rituparna Barman to the effect that, in the year 2018 her marriage was arranged with accused Sri Nayanjyoti Barman and date was fixed on 28.04.18 for her marriage and accordingly, the informant as well as her family members arranged streedhan articles, tent house, cook and invited relatives and other person to the marriage, but on the month of March the accused persons without giving any information and without any reason broke the marriage with the informant and on 28.04.18 they arranged marriage of accused Sri Nayanjyoti Barman with other girl. By breaking the marriage with her, without any reason, the accused persons, defamed the informant as well as her family members in the society and tortured them mentally in different ways. The accused persons also threatened to kill her and her family members. Hence, the case.
2. The police upon receipt of the ejahar registered it as Nalbari Police Station case No.262/18 under sections 420/500/506/34 IPC and started investigation in the case. After completion of the investigation the police submitted charge sheet against the accused persons, namely Sri Nayanjyoti Barman, Sri Dhrubajyoti Barman and Sri Rituparna Barman under section 420/500/34 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 persons. Upon hearing and on perusal of record, the charge was framed, and the particulars of offences under section 420/500/506/34 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 two witnesses including the informant/victim of the case. The prosecution prayed to close the evidence of prosecution side, as the principal witness

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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. The statement of the accused persons under section 313 of CrPC, are recorded, and the accused persons denied of committing the alleged offences. The accused Nayanjyoti stated that his marriage was fixed with the informant, but they were not compatible with each other so he formally went and called off the marriage, he did not fix his marriage with any other girl, rather he is still single. The case was lodged due to misunderstanding between the parties.
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-
  - i. Whether the accused persons, on or before 20.04.18 at village Gabindapur under Nalbari P.S., in furtherance of their common intention, arranged the marriage of the accused Sri Nayan Jyoti Barman with the informant Smti Manisha Kalita, and the date of marriage was fixed, thereafter the informant/ victim and her family members arranged streedhan articles, tent house, cook and invited relatives and other person to the marriage but on the month of March without giving any information and without any reason broke the marriage, with intention to defame Smti. Manisha Kalita in the society and thereby committed an offence punishable under section 500/34 IPC?
  - ii. Whether the accused persons on or before 20.04.18 at village Gabindapur under Nalbari P.S., in furtherance of their

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common intention, cheated Smti. Manisha Kalita by dishonestly promising to marry her with Sri Nayan Jyoti Barman and inducing her to deliver property, amounting to Rs.2,00,000/- in the name of marriage, but then broke the marriage and thereby committed an offence punishable under section 420/34 I.P.C?

iii. Whether the accused persons on or before 20.04.18 at village Gabindapur under Nalbari P.S., in furtherance of their common intention, criminally intimidated the informant and her family members by threatening to kill her and her family members and thereby committed the offence under section 506/34 I.P.C?

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. I, ii & iii:**

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, including the informant/victim of this case.
- 11.The PW1, Smti. Manisha Kalita, who is the informant/victim of this case, has stated that, the incident occurred around one year ago, at that time of her marriage was arranged with the accused Sri Nayanjyoti Barman, and everything was fixed and her marriage cards were distributed and suddenly her marriage was called off, so, she got very distressed and was emotionally broken, and she could not understand why it happened, what she did, and so out of misunderstanding and in flow of emotion she lodged the ejahar against the accused Nayanjyoti and his two brothers. But after two months she got married to another man and she is happily settled in her life. Later on, after talking with the accused, their misunderstanding was resolved, and now they are maintaining

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good relation. Exhibit 1 is the ejahar and Exhibit-1(1) is her signature.

In cross-examination, the PW1 admitted that later she came to know that the accused persons had not intentionally called off the marriage to defame her in the society or cheat her, the circumstances were not favourable and the marriage was called off. The PW1, also admitted that the accused persons did not criminally intimidate her.

12. The PW2 Sri Gopal Kalita, has stated that he know the informant of this case, she is his daughter. At the time of incident his daughter's marriage was arranged with the accused Sri Nayanjyoti Barman, and everything was fixed and the marriage cards were distributed and suddenly the marriage was called off, his daughter was emotionally broken, and so out of misunderstanding and anger her daughter lodged the ejahar against the accused persons. Later on, after talking with each other the misunderstanding was resolved between his daughter and the accused persons.

In the cross-examination, the PW2 admitted that later on, he came to know that the accused persons had not intentionally called off the marriage to defame his daughter in the society or cheat her, neither they criminally intimidated them.\_

13. On perusal of the case record, it is seen that a marriage between the accused Nayanjyoti was arranged with the informant, and but the accused person called off the marriage, and the informant got very depressed and lodged the case against the accused persons out of misunderstanding . The perusal of the evidence of the PW1, who is the principal witness of this case, had not at all supported the prosecution version and have specifically admitted that the accused persons did not intentionally defamed her nor cheated her neither criminally intimidated her, the entire incident was caused due to uncontrolled emotional outburst.

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- 14.Hence, in view of the above, it is held that the prosecution has failed to establish the charges against the accused persons under section 420/500/506/34 of IPC.
- 15.In view of the above discussion it is held that the prosecution has failed to prove the points for determinations.
- 16.DECISION: The prosecution has failed to prove the charges against the accused person under section 420/500/506/34 of IPC, and therefore, the points for determinations are answered in negative, in favour of the accused person.

#### **ORDER**

- 17.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 ; as such the accused persons are acquitted of the charges under section 420/500/506/34 IPC and they are set at liberty.
- 18.The bail bond of the accused persons and their surety shall remain in force for six months from today.
- 19.The case is disposed of on contest without cost.

Given under my hand and the seal of this court on this the 24<sup>th</sup> day of July, 2019 at Nalbari.

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

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**APPENDIX**

**PROSECUTION EXHIBITS:**

- 1) EXHIBIT 1 - EJAHAR

**DEFENCE EXHIBITS**

NONE

**PROSECUTION WITNESSES**

- 1) SMTI MANISHA KALITA.
- 2) SRI GOPAL KALITA

**DEFENCE WITNESSES**

NONE

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

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