

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

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

Ref: PRC No.1643/2019

State

-VS-

Rantu Barman

S/o- Surjya Barman

Village- No 2 Naptipara

PS- Mukalmua.

Dist. Nalbari, Assam

..... Accused person.

u/s-447/341/323 IPC.

EVIDENCE RECORDED ON : 05.02.2020.

ARGUMENTS HEARD ON : 05.02.2020.

JUDGMENT DELIVERED ON : 05.02.2020.

ADVOCATES APPEARED :

For the State : Mr. D. Talukdar, Ld. A.P.P.

For the Accused : Mr. T. Ahmed, Ld. Advocate.

J U D G M E N T

1. The case of the prosecution, in a brief, is that an FIR was filed on 18.09.2019, before the Officer-in-Charge of Mukalmua PS by informant Miss Babita Baishya against the accused person namely Rantu Barman, alleging, inter alia that on 17.09.2019, at about 7.30 pm, while her husband namely Sri Chandan Baishya was proceeding towards Bornibari Chowk in order to do marketing, the accused Rantu Barman assaulted him brutally. So, when her husband somehow tried

to rescue himself from them and rushed towards his house, the accused came behind him and entered into their courtyard and abused them and also assaulted the informant. He also torn the apparels which the informant was wearing. When her daughter Sri Bhanismita Baishya tried to stop the accused, he assaulted her also very badly as a result of which she was admitted to Mukalmua Hospital and then in Guwahati G.M.C.H. Hence, the case.

2. On receiving the case, the Officer-in-Charge of Mukalmua P.S. registered Mukalmua P.S. Case No.466/2019 u/s-341/325/354(B)/447 IPC and started investigation. On completion of investigation the I.O laid charge-sheet against the accused person namely Rantu Barman u/s-341/323/447 IPC vide CS No.244/2019 dated 29.09.2019

3. In pursuance of the process issued, the accused 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. Thereupon prima facie case was found against the accused person u/s-341/323/447 IPC and the substance of accusation u/s-341/323/447 IPC was explained to the accused 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 Rantu Begum, on 17.09.2019, at about 7.30 pm, at village No.2 Naptipara under Mukalmua PS, committed criminal trespass by entering into the premise of informant Babita Baishya and thereby committed an offence punishable u/s 447 IPC ?

- Whether the accused person namely Rantu Barman, on

17.09.2019, at about 7.30 pm, at village No.2 Naptipara under Mukalmua PS, voluntarily obstructed informant's husband Chandan Baishya as to prevent him from proceeding in the direction in which he had right to proceed and thereby committed an offence punishable u/s-341 I.P.C ?

- Whether the accused person namely Rantu Barman on 17.09.2019, at about 7.30 pm, at village No.2 Naptipara under Mukalmua PS, voluntarily caused hurt to informant's husband Chandan Baishya and thereby committed an offence punishable u/s-323 I.P.C ?

DECISION AND REASONS THEREOF

6. PW.1 is informant Smti. Babita Baishya. She deposed that she filed the case against the accused person namely Rantu Barman. The incident occurred around 5 months ago. On the day of the incident, at about 7.00 pm, while her husband Chandan Baishya was proceeding towards Bornibari Chowk, he had an altercation with the accused. Thereafter, she filed the FIR. Ext.1 is the FIR and Ext.1(1) is her signature.

7. During cross-examination, this witness deposed that now the matter has been compromised.

8. PW.2 is Chandan Baishya. He deposed that informant is his wife. He knew the accused. The incident occurred about 5 months ago. He had an altercation with the accused at Bornibari Chowk. So, the FIR was filed. Now the matter has been compromised between them.

9. Defence declined to cross-examine this witness.

10. These are the materials on record.

11. From the materials on record, it is seen that PW.1 i.e. informant and PW.2 i.e. victim have not implicated the accused person of commission of offence u/s-341/323/447 IPC. They have merely stated that on the day of the incident, there was an altercation between PW.2 and accused. The informant as well as PW.2 have not stated anything

incriminating material regarding the incident against the accused. They further stated that now the matter has been compromised.

12. The evidence on record does not lucidly portray the necessary elements required to constitute offences u/s-341/323/447 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, accused person namely Rantu Barman is acquitted of the offences u/s-341/323/447 IPC and set at liberty forthwith.

14. Bail bond will remain in force till 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 5th day of February, 2020.

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

Dictated and corrected by me

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

T. Paul

APPENDIX:

Witnesses for the prosecution

- PW.1 - Smt Babita Baishya, informant.
PW.2 - Chandan Baishya.

Witnesses for the defence

None

Prosecution Exhibits

- Ext.1 - FIR.
Ext.1(1) - Signature of informant.

Defence Exhibits

None

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