

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

DISTRICT: NALBARI

P.R.C. No. 08/20
U/s. 341/294/323/506(II) IPC

State of Assam

-vs-

1. Sri. Pankaj Baishya

S/O: Sukhna Baishya

Vill: Natun Ulubari

PS: Tihu

Dist: Nalbari..... Accused person

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

Advocates appeared:

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

For the Defence: Mr. S. Talukdar, Advs.

Dates of Evidence: 06.02.2020

Date of Argument: 06.02.2020

Date of Judgment: 06.02.2020

J U D G M E N T

1. Prosecution's case, in brief, is that on 16.11.2019, one Sri. Samiran Baishya lodged an ejahar before the Officer-in-Charge, Tihu P.S alleging inter-alia that on 15.11.19, at about 08:50 pm, the accused person Sri Pankaj Baishya rebuked the informant with obscene language at Ulubari Chowk in front of SD College. When the informant ignored the accused person, the accused person again rebuked the informant with obscene language and assaulted him with a sharp bangle as a result of which the victim/informant suffered serious injuries on his head. The accused person also threatened to kill the informant. Hence, the case.

2. On receipt of the ejahar, Tihu P.S. Case No. 176/19, u/s 341/294/325/506 I.P.C. was registered and investigated into. On completion of the investigation, I/O filed charge sheet against the accused person u/s 341/294/323 I.P.C and accordingly cognizance was taken against the said accused person u/s 341/294/323 IPC.

3. On appearance before the court, necessary copies were furnished to the accused person u/s 207 CrPC. Finding prima facie materials against the accused person u/s 341/294/323/506(II) IPC, charge u/s 341/294/323/506(II) IPC have been framed against the accused person which is read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. In support of its case, prosecution side examined only 3 (three) witnesses. The statement of the accused persons has been dispensed with as found not necessary.

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 person, on 15.11.19, at about 08:50 pm, at Tihu Town, ward no. 1, under Tihu P.S., wrongfully restrained the informant Samiran Baishya, and thereby committed an offence punishable u/s. 341 IPC?*

(ii) *Whether the accused person, on the same date, time and place, rebuked the informant with obscene language at a public place, and thereby committed an offence punishable u/s. 294 IPC?*

(iii) *Whether the accused person, on the same date, time and place, voluntarily caused hurt to the informant and thereby committed an offence punishable u/s. 323 IPC?*

(iv) *Whether the accused person, on the same date, time and place, committed criminal intimidation by threatening to kill the informant and thereby committed an offence punishable u/s. 506(II) IPC?*

DISCUSSION, DECISION AND REASONS THEREON:

7. Before going to decide the points for determination, let me describe the evidence in brief.

8. *In his examination-in-chief PW 1/Sri Samiran Baishya/informant, deposed that he had lodged this case against the accused person on 16.11.2019 on some misunderstandings. PW 1 further deposed that the accused person had neither assaulted nor rebuked him with obscene language. He also deposed that the accused person had not threatened to kill him. Defence declined to cross-examine this witness.*

9. *In his examination-in-chief PW 2, Sri Ramen Baishya*, deposed that the informant is his son and he knows the accused person. He further deposed that his son had lodged this case against the accused person on some misunderstandings. Defence declined to cross-examine this witness.

10. *In his examination-in-chief, PW 3, Sri. Chandan Baishya*, deposed that he knows the informant and the accused person. He further deposed that he does not know anything about the incident. Defence declined to cross-examine this witness.

11. Perusal of the evidences deposed by the prosecution witnesses particularly the evidence of the victim/informant, it is clear that he had lodged this case against the accused person on some misunderstandings. This fact has also been deposed by the father of the informant while deposing evidence as PW 2. PW 3 deposed that he does not know anything about the incident. In view of the evidences on record, I am of the considered opinion that there is not a single iota of proof against the accused person u/s 341/294/323/506(II) IPC. As such, the accused person deserves acquittal.

ORDER

12. In view of the conclusion made above, I hold the accused person not guilty of the offences u/s 341/294/323/506(II) IPC. Hence, the accused person is acquitted of the offence u/s 341/294/323/506(II) IPC and set at liberty forthwith.

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

14. The judgment is delivered in the open Court in presence of the accused person and his learned Counsel.

Given under my hand and the seal of this court on this 06th day of February, 2020.

Dictated and corrected by me:

Anurup Bordoloi
Munsiff cum JMFC
Tihu.

:Appendix:

1. Prosecution witnesses:

- (i) P.W.1- Sri Samiran Baishya
- (ii) P.W.2- Sri Ramen Baishya
- (iii) PW 3- Sri. Chandan Baishya

2. Prosecution exhibits: Nil

3. Defence witness: Nil

4. Defence Exhibits: Nil

5. Court Witness: Nil

Munsiff cum JMFC, Tihu