

:: IN THE COURT OF THE SESSION JUDGE, NALBARI ::

Present: Smti S. Bhuyan.
Session Judge,
Nalbari.

(Criminal Revision Case No. 59/17)

**Revision against the order dated 15/09/2017 passed by
Learned JMFC, Nalbari in connection with C.R. Case No.
278^c/2017 u/s 380/403/506/34 IPC.**

Anjuwara Choudhury

W/o- Liyakat Chodhury

R/o- Vill- Balikaria

P.O- Kajipara/ Balikaria

P.S.- Nalbari

Dist - Nalbari, Assam.....Revisionist

versus

Farida Begum

D/O- Mamud Ali

Babul Ali

S/O- Mamud Ali

R/o- Byashkuchi (Khurafaladi)

P.O.- Byashkuchi

P.S- Sarthebari

District - Barpeta, Assam.....Opposite Party

Judgment delivered :- 16/06/2020

JUDGMENT

1. This revision petition has been filed by Anjuwara Choudhury u/s 397/399 CrPC being highly aggrieved and dissatisfied with the order of then Learned JMFC, Nalbari dated 15/09/2017 in C.R. Case No. 278C/2017 u/s 380/403/506/34 IPC.

2. The fact leading to this revision petition is that revisionist petitioner as complainant filed a complain against the opp. Party Farida

Begum and Babul Ali in the court of learned CJM Nalbari. She stated she is a simple lady whereas accused persons are greedy. Her son Rinku Choudhury got married with accused no.1 Farida Begum and their marriage was solemnized socially as per muslim ritual on 13/03/2016. Thereafter, Farida Begum stayed at her house being her daughter-in-law and started conjugal life with her son Rinku Choudhury, clever accused Farida Begum not fulfilling her duties as married lady and having extra marital relationship. When complainant's son Rinku Choudhury went to his service place, accused no.1 Farida Pathak talking with a boy title Pathak and on asking she replied said boy is her relative, but they were never rude to her. On 08/01/2017 at about 12PM in the absence of Rinku Choudhury, Farida Begum called her brother Babul Ali and took away Rs. 50,000 cash amount, two gold necklace, one pair of earing, one pair of gold bangle, five pat sets telling informant that she will return home after 3 days. Complainant stated that all the aforesaid goods are purchased by her husband and kept in the godrej and one key of the godrej is in accused possession. After this incident on 21/01/2017 complainant with her relative went to bring Farida Begum to her house but Farida refuse to return to her house. On 03/07/2017 her son Rinku pronounced three talaq to Farida at Nalbari, Sadar Kazi and after getting the talaq nama the accused person again threatened to her and her son on 11/07/2017 with dire consequence, hence, th case.

3. Then Leaned CJM after recording the statement of the complainant u/s 200 CrPC, transferred the case to the court of learned JMFC for disposal. Then learned JMFC Nalbari after recording statement of the witnesses u/s 202 CrPC dismissed the case of the complainant u/s 203 CrPC, hence, this revision petition.

4. I have scrutinized the case record. According to the complainant cause of action first started on 08/01/2017 when Farida Begum, Opp. Party left the matrimonial house and complainant has knowledge about the same. Her plea is that on 21/01/2017 they went to the house of accused to bring back her and Farida Begum refused to return to her matrimonial house. On 03/07/2017 Rinku Choudhury son of

complainant revisionist divorced accused no.1 Farida Begum. She allegedly on 11/07/2017 accused no.1 Farida Begum, her estranged daughter-in-law gave threatening to her and her son Rinku.

5. Complainant in her petition as well as in her statement recorded u/s 200 CrPC made statement that her son Rinku Choudhury married accused no.1 Farida Begum as per Muslim Shariyat on 13/03/2016 and since then she was staying at complainant house as her daughter-in-law. Her statement in her complain petition as well as in her 200 CrPC statement further pointed that key of the almirah is kept by both she and her daughter-in-law that means both has accesses to the said property. Complainant claim that the goods mentioned by her in her petition is purchased by her husband for her and she furnished the voucher. But on scrutiny of the entire record there is not a single voucher found. There is no list of documents submitted by the petitioner to show that she had purchased the article mentioned in her complaint petition and she is the owner and sole possessor of those articles. The statement of the complainant clearly shown that the key of the almirah is in possession of the Farida Begum and she has knowledge of taking the same with her on 08/01/2017. Thus, so there is no ingredients of taking away removing of the goods without knowledge. Complainant failed to show her ownership and exclusive possession in respect of the the article mentioned by her in her complain petition. There is no ingredients of entrustment and breach of trust transpires from the statement of complainant and her witness Rinku who is her son and husband of the accused respondent Farida. There is no prima facie material appear from the statement of complainant and her witness recorded u/s 200/202 CrPC to proceed the case against the respondents/accused person when u/s 380/403/506/34 IPC on any other penal provision and that being so learned trial Magistrate rightly dismissed the case of the complainant u/s 203 IPC.

6. In view of my aforesaid discussion, I find that this revision petition is devoid of any merits and there is nothing left to interfere and accordingly revision has been dismissed and the order dated

15/19/2017 passed by the then Learned JMFC Nalbari, C.R Case No.278^c/2017 u/s 380/403/506/34 IPC dated 15/09/2017 is hereby upheld. However, no cost to the parties.

14. Send down the LCR with a copy of this court judgment to the learned trial court immediately.

Judgment delivered under hand and seal of this court on this 16th day of June, 2020 at Nalbari, District-Nalbari.

(Smti S. Bhuyan)
Session Judge, Nalbari.

Dictated & corrected by me

(Smti S. Bhuyan)
Session Judge, Nalbari.

Typed by:
Anzima Brahma
Stenographer Gr-III