

THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI
P.R.C. CASE NO.- 1488/2019
U/S 341/294 OF THE IPC

STATE

VS.

MD. HUSSAIN ALI
S/O LATE KAJIMUDDIN
R/O AHATA
P.S. MUKALMUA
DISTT. NALBARI

PRESENT:- KAUSHIK KAMAL BARUAH
SUB-DIVISIONAL JUDICIAL MAGISTRATE (SADAR)
AT NALBARI

APPEARANCES:- SMT. MONIKA CHAKRABORTY.....FOR STATE
RASHED BHUYAN.....FOR ACCUSED

DATE OF EVIDENCE:- 13/12/2021, 03/01/2022.

DATE OF ARGUMENT:- 27/01/2022.

DATE OF JUDGMENT:- 27/01/2022.

JUDGMENT

Accused Hussain Ali stood trial for offences punishable under sections 341/294 of the Indian Penal Code, 1860 (the IPC for short).

Material facts of the case as appears from the contents of the First Information Report (FIR for short) are as follows:- that, on 15/08/2019 at about 05:30 PM, Ahata under Mukalmua Police Station (PS for short), above named accused person and another, for no reason whatsoever, manhandled the informant, namely, Ajar Ali, inflicting severe injuries on his person. That, during the course of the occurrence, the accused had also hurled expletives at the informant.

On 16/08/2019, informant named-above lodged a written FIR before the Officer-in-Charge (O/C for short) of Mukalmua PS which was registered and numbered as Mukalmua P.S. Case No.410/2019 u/s 325/34 of the IPC. During the course of investigation, the investigating officer (I/O) visited the place of occurrence, recorded statements of witnesses u/s 161 of the Code of Criminal Procedure, 1973 (the Cr.P.C. for short), collected medical report of the victim, made a rough sketch map of the place of occurrence, arrested the accused person and released him on bail.

After completing the investigation, the I/O returned the case in Final Form for prosecution of the accused person u/s 341/294 of the IPC.

Court processes were issued and on his appearance the accused was allowed to go on bail. Copies of all

relevant documents were furnished to the accused person. Particulars of the offences u/s 341/294 of the IPC were explained to the accused person to which he pleaded not guilty and claimed to be tried.

Prosecution examined three (03) witnesses and closed evidence. Examination of the accused u/s 313 of the Cr.P.C. was dispensed with as nothing was deposed against him.

Heard arguments advanced by learned Assistant Public Prosecutor and learned defence counsel.

POINTS FOR DETERMINATION

- a) Whether accused Hussain Ali, on 15/08/2019 at about 05:30 PM at Ahata under Mukalmua PS, wrongfully restrained Md. Ajgar Ali?
- b) Whether the accused person, on the same day, time and place uttered obscene words to the annoyance of others?

And, thereby the accused is liable to be punished u/s 341/294 of the IPC.

DISCUSSION, DECISION AND REASONS THEREON

In order to establish the allegations against the accused person, prosecution examined Md. Ajgar Ali, Md.

Atabar Ali, Md. Hussein Ali as PW1, PW2, PW3 respectively and closed evidence.

PW1, Md. Ajgar Ali, was the informant. His deposition is as follows:-

"I am the informant. Accused Hussain Ali is my neighbor. On 15.08.19 at about 5:30 p.m., I had an argument with the accused on a trivial matter and misunderstanding the fact situation I filed an FIR against the accused. I had affixed my thumb impression thereon. The occurrence took place due to misunderstanding and I have no objection if the accused is acquitted.

XXXXXXXXXX

Cross Examination declined by defence."

PW2, Md. Atabar Ali, stated as such:-

"Informant is my father. Occurrence took place about two years ago. Accused is our neighbour. On the date of occurrence my father had an argument with the accused person and on a misunderstanding my father filed FIR against the accused. No occurrence took place as alleged by my father.

XXXXXXXXXX

Cross Examination declined by defence."

PW3, Md. Hussein Ali, stated as follows:-

“Informant is my father. Occurrence took place about two years ago. Accused is our neighbour. On the date of occurrence my father had an argument with the accused person and on a misunderstanding my father filed FIR against the accused. No occurrence took place as alleged by my father.

XXXXXXXXXX

Cross Examination declined by defence.”

Above stated narration of facts is all that the prosecution has in its armory against the accused person. But, even a cursory glance at it demonstrates that the informant, who is also the victim of the occurrence, had not at all incriminated the accused person of the offences for which he was prosecuted. It is apparently clear from his testimony that the dispute arose out of a misunderstanding on his part. In my considered view, it was on a mistake of fact that the criminal law was set in motion against the accused person.

In a nutshell, prosecution had failed to prove the allegations against accused Hussain Ali for the offences u/s 341/294 of the IPC in all respects.

The points for determination are, therefore, decided in the negative.

ORDER

As such, from the observation and discussion done hereinbefore, I arrive at the conclusion that the prosecution had failed to establish the allegations against accused Hussain Ali for the offences u/s 341/294 of the IPC in all respects. As such, the accused is acquitted of the offences under the sections of law indicated above.

Accused person be set at liberty forthwith. Bail bonds of the accused person stands effective for next six months from today. The accused person may obtain copy of the judgment but not without payment.

Instant case is disposed of on contest.

Given under my hand and Seal of the Court this 27th day of January, 2022.

Typed and corrected by me and every page bears my signature.

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.

THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI
P.R.C. CASE NO.- 1488/2019
APPENDIX

- 1) Prosecution exhibits:- NIL
- 2) Prosecution witnesses:-
PW1:- Md. Ajgar Ali
PW2:- Md. Atabar Ali
PW3:- Md. Hussein Ali
- 3) Defence exhibits.- NIL
- 4) Defence witnesses.- NONE

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.