

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
UDALGURI, ASSAM.**

**C.R. CASE NO. 37 of 2017
(U/S-468/506/34 IPC)**

MD. NUR HAQUE ALI

-----Complainant

-VS-

**MD. BILAL ALI,
MD. BABUL ALI,
MD. KITAB ALI,
MD. KARAN ALI AND
MD. SORHAB ALI**

-----Accused persons.

Present: Smti. Nilakshi Lahkar, A.J.S.

Advocate for the Complainant : Mr. T. C Boro

Advocate for the Accused : Mr. M. C. Narzari

**Evidence recorded on :09.04.18, 27.08.18, 31.10.18, 15.03.19,
10.07.19, 23.07.19**

Argument heard on :14.08.2019

Judgment delivered on :22.08.2019

J U D G M E N T

- 1.** The complainant case, in brief is that on 08.12.2015 the informant had organized three village meeting at his house as Muktar Ali, who is the son of the accused Kitap Ali did some wrong with the daughter of the informant and Md. Habibur Rahman was the president of those meetings. Afterwards a resolution took place that Muktar Ali, the son of the accused Kitap Ali had agreed to accept that he would solemnize marriage with Tarabhanu Begum, who is the daughter of the complainant. After completion of the meeting the "samajnama" was handed over to the accused persons and Muktar Ali did not accept the daughter of the informant, so the informant had asked the

“samajnama” from the hands of the accused persons, but the accused persons did not return it. After some days the accused persons had returned the “samajnama”, but the accused persons had manipulated some portion of that “samajnama” by using whitener, for which the complainant went to the house of the accused persons and asked them as to why they had erased the “samajnama”, but the accused persons had uttered obscene words towards him and threatened him with dire consequences and also dragged him from their house. Hence this case.

2. After examining the complainant U/S 200 Cr.P.C. and after recording the statement of her witnesses u/S 202 Cr. PC cognizance of offence had been taken against the accused persons u/S 468/506/34 IPC and accordingly summons was issued to him.
3. After getting summon the accused person duly appeared before the Court and got bail.
4. The defence Story is of total denial. On the appearance of the accused persons before the Court, copies of relevant documents were furnished to them. The charges u/S 468/506/34 IPC had been framed against the accused persons and thereafter the charges so framed was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
5. During trial the prosecution has examined as many as five (5) PWs including the informant. The statement of defence of the accused u/S 313 Cr.P.C has been recorded. The defence case is of total denial. Defence did nto adduce any evidence for his defence. Argument had been heard from both sides.
6. I have considered the evidence on record, statement u/S 313 Cr.PC and the argument advanced. For the purpose of clarity, the following points for determination is hereby framed:

POINTS FOR DETERMINATION OF THE CASE:

(i) Whether on or about the year of 2015 at Naptipara under Kalaigaon PS, the accused persons in furtherance of their common intention had forged the "samajnama" (resolution) of a village meeting which was held in regard to the marriage between Tarabhanu and Muktar Ali intending that it shall be used for the purpose of cheating and thereby committed the offence punishable under section 468/34 IPC?

(ii) Whether on the same date, time and place, the accused persons in furtherance of their common intention had criminally intimidated the victim Md. Nur Haque by threatening him with dire consequences i.e injury to his person with intent to cause alarm to him to do or not to do any act which he was not legally bound to do and thereby committed the offence punishable under section 506/34 IPC?

- 7. DISCUSSION, DECISION AND REASONS FOR THE DECISION:** The prosecution has examined as many as five (5) witnesses witnesses:
- 8.** PW1 Nur Haque, the complainant herein this case has stated in his evidence that his daughter Tarabhanu Begum was married to Muktar Ali. In regard to the said marriage there was a meeting in their village and the resolution (samajnama) of the meeting was kept in the hand of Bilal Ali. When he asked the resolution from Bilal Ali, he got the same from Babul Ali and many important things from the "samajnama" were erased. His daughter was assaulted by Mukhtar Ali. When he went to bring the resolution of the aforesaid meeting then Babul Ali threatened him.
- 9.** During cross examination PW1 has stated that the meeting was taken place at his house. But he did not remember the date of the meeting. The meeting was taken place at about 07:00 PM and there was about 25/26 people present at the meeting. Nur Islam Ali was the president in that meeting. The meeting was taken place regarding the marriage of his daughter Tarabhanu. The accused persons belong to same family. The accused persons were staying separately. The contents of the petition were written as per his direction. He is a illiterate person. He

did not remember the contents of the agreement. He has denied the fact that the "samajnama" was handed over to him and he had erased some words from the "samajnama" and had falsely implicated the case against the accused persons. The "samajnama" was written by Nur Islam. When he asked the "samajnama" from Babul Ali then the accused persons were not together. When he brought the "samajnama" then there was pushing and shoving between him and Babul Ali. He did not remember the date as to when he brought the "samajnama". When he brought the "samajnama" then he noticed that some of the words were missing from the "samajnama", but he had not inquired about the matter from Babul Ali. Rests of his cross examination are the suggestions which he has denied.

10. PW2 Sahidul Ali has deposed that he knows all the accused persons and the complainant in this case. About two years back the complainant called for a village "bichar" and the "samajnama" (resolution) was prepared. The said "bichar" was called for as Muktar Ali did some wrong with the daughter of the complainant. He was present in the said village "bichar" and he signed the "samajnama". The said "samajnama" was handed over to the accused Billal Ali and he was asked to keep the same. But later on Billal Ali handed over the same to Babul Ali without intimating anyone. Later on he had seen that there was some whitener used in the said "samajnama" and the same was manipulated. He has identified the said "samajnama" (resolution) as Exhibit 1 and Exhibit 1 (1) is his signature. The said "samajnama" was later, asked for by the complainant from Billal Ali. The act of the accused manipulating the said "samajnama" was illegal and doing thus, the accused insulted the "samaj".

11. During cross examination PW2 has stated that the accused persons hailed from their village. The accused persons did not belong to the same family. The meeting was held about 2 years back and in that meeting there was about 50/60 persons present. The meeting was held at the house of Nur Haque and "Kaji" was also present in the said meeting. The resolution of the meeting was written by Nur Islam. The

president of said meeting was Habibur Rahman. He did not remember the contents of the "samajnama" and he had signed in the said "samajnama". The resolution of the said meeting was kept by Habibur Ali and Billal Ali took the "samajnama" from him. After that he heard that Babu Ali brought the "samajnama" from Billal Ali and manipulated some portion of the "samajnama" by using whitener. He had not seen as to who had used whitener in the "samajnama". He did not remember as to when he was shown the "samajnama" by the informant.

12.PW3 Hussain Ali has deposed that he knows all the accused persons and the complainant in this case. About one year back the complainant called for a village "bichar" against the accused Kitab Ali and His family over the matter of his daughter. The said "bichar" continued for about 3 days and a "samajnama" (resolution) was prepared. He was present in the said village "bichar". The said "samajnama" was handed over to the accused Billal Ali and he was asked to keep the same. But later on Billal Ali handed over the same to Babu Ali without intimating anyone. Later on he heard that whitener was used in the said "samajnama" and the same was manipulated. The said "samajnama" was later, asked for by the complainant from Billal Ali. The act of the accused manipulating the said "samajnama" was illegal.

13.During cross examination he has deposed that the meeting was taken place at about 2 years back and the marriage between the daughter of the informant namely Tarabhanu and Muktara Ali was solemnized in that meeting and prepared the 'samajnama'. The meeting was held at about 09:00 PM. He did not remember the contents of the "samajnama". The "samajnama" was prepared by Nur Islam. The president of the said meeting was Habibur Rahman. Sadek Ali, Sahidur, Siraj Ali etc. were present in the said meeting. He put thumb impression in the "samajnama". After completion of the said meeting, the "samajnama" was taken by Billa Ali from Habibur Rahman. He heard that Babu Ali took the "samajnama" from Billa Ali, but he had not seen it. He had also heard that Nur Haque had taken the "samajnama" from Babu Ali, but he had not seen it. He was shown that whitener was used

in the "samajnama" by Nur Haque Ali. There was edit in the "samajnama" which portion was erased by using whitener. He had not seen as to who used whitener in the "samajnama".

14. PW4 Salimuddin Ali has deposed that he knows all the accused person and the complainant, they belong to the same village. About one year back the complainant called for a village "bichar" against the accused Kitab Ali and his family over the matter of his daughter. The said "bichar" continued for about 3 days and a "samajnama" (resolution) was prepared. He was present only one day in the said village "bichar". The said "samajnama" was handed over to the accused Billal Ali and he was asked to keep the same. After some days the complainant brought the said "samajnama" (resolution) and showed the same to them. It was seen that whitener was used in the said "samajnama" and the same was manipulated. Many parts of it were removed using the whitener. The act of the accused manipulating the said "samajnama" was illegal and doing thus, the accused insulted the villagers.

15. During cross examination he has stated that he knows the accused persons. The accused persons resides separately. He did not remember the date of the meeting. The meeting was taken place at the house of Nur Haque. There was about 30/40 people gathered at the house of Nur Haque. There was no president in the said meeting. But the resolution was prepared in the said meeting. He did not remember as to who had prepared the resolution in the said meeting and what have been written in the said resolution. Afterwards the copy was handed over to Billal Hussain. There had an argument in the said meeting as Muktar Ali did not want to accept Tarabhanu after marriage. Later on some whitener was used in the "samajnama". Nur Haque had taken the resolution copy from the Billal Hussain and shown to him. He did not know as to who had used whitener in the said resolution. Rests of his cross examination are the suggestion which he has denied.

16. PW5 Sadek Ali has deposed in his evidence that he knows both the parties to the case. Both the parties are his neighbors. About 2/2 and 1/2

years ago Nur Hauque called for a village meeting regarding the pregnancy of his daughter. About 30/40 persons including the Kaji were present in the said meeting. In the said meeting it was proposed that Muktar Ali will have to marry the daughter of Nur Haque and a resolution was taken to that effect. Samajnama was executed and the same was handed over to Habibur Rahman who was the president of the said meeting. After some days Nur Haque showed him the aforesaid "samajnama" and in that "samajnama" whitener was used to erase some parts of the writing on it. The said act of erasing the writings of the "samajnama" by using a whitener was illegal. He has identified the said "samajnama" as Exhibit 1 and Exhibit 1 (2) is his signature.

17. During cross examination he has deposed that he could not say properly the date of the said meeting. The meeting was held at the house of Nur Haque Ali. There were 40/50 persons present in the said meeting. Habibur Rahman was the president of the said meeting. The said meeting was called for as Muktar Ali had maintained illegal relation with Tarabhanu, for which she became pregnant. Muktar Ali, Kaji, Nur Islam and some members of AAMSU were present. But he could not say the name of all persons. The resolution was prepared in the said meeting and resolution of the said meeting was that Kitap Ali had accepted Tarabhanu as daughter-in-law after giving birth child of her. One Nur Islam had prepared the resolution of the said meeting. He had signed in the "samajnama". The said "samajnama" was handed over to the president Habibur Rahman. Habibur Rahman was not an accused person in this case. The father of the informant had told him that Babu Ali took the "samajnama" from the hands of Habibur Rahman and some parts was manipulated by using eraser. He did not remember as to when Babu Ali took the "samajnama" from Habibur Rahman. There was no edit portion in the "samajnama" where whitener was used. He had not seen as to who had erased the "samajnama". The accused persons did not belong to same family, but they hail from same village. Nur Haque had taken the "samajnama" from the president Habibur Rahman. He has denied the suggestion that the informant had himself erased the samajnama and filed the false case against the accused

persons for harassing them. They found the "samajnama" from Habibur Rahman.

- 18.** During the course of argument, learned defence counsel has stated that there are no incriminating materials against the accused person and prayed to acquit the accused person from the charges.
- 19.** Let the case be decided on the basis of the evidence available in this case record. Having perusal of the evidence of all the PWs including the informant, it is found that all of the PWs have deposed in their evidence that the "samajnama" which was prepared in the village meeting was manipulated and some portion of the "samajnama" got erased by the accused persons by using whitener. But complainant side has failed to execute the "samajnama" which was alleged to be forged by the accused persons.
- 20.** Furthermore, to attract an offence u/S 468 IPC, the forged documents must be used for the purpose of cheating to the public or to any person. But no materials have been found from the evidence of the PWs that the "samajnama" which was alleged to be forged had been used by the accused persons for the purpose of cheating to anyone.
- 21.** Furthermore, it is also found from the evidence of the PWs that all of the PWs have deposed in their evidence that they had not seen who has used whitener in the "samajnama".
- 22.** All the discussion as made above, goes to show clearly that the complainant has failed to establish the ingredient of offence u/S 468/34 IPC against the accused persons beyond all reasonable doubt.
- 23.** Further, it is also found that no one of the PWs in this case have stated in their deposition that the accused persons have criminally intimidated the informant or any other person with any injury to their person or reputation or property. The ingredient u/S 506/34 IPC has not been established against the accused persons beyond all reasonable doubt.

ORDER

The Complainant side has failed to establish the offence u/S 468/506/34 IPC against the accused persons beyond all reasonable doubt. Hence, I hereby acquitted the accused persons under the above sections of law and set at liberty forthwith.

The bail bonds of the accused persons shall remain in force for next six months as per provision of section 437(A) CrPC.

The judgment is given under the hand and seal of this Court on this 22nd day of August, 2019.

(N. Lahkar)

Addl. Chief Judicial Magistrate
Udalguri, Assam.

Dictated and corrected by me:

(N. Lahkar)

Addl. Chief Judicial Magistrate.
Udalguri, Assam.

APPENDIX

- A. Prosecution witnesses : PW 1 Nur Hoque (Complainant)
PW 2 Sahidul Ali
PW 3 Hussain Ali
PW 4 Salimuddin Ali
PW 5 Sadek Ali
- B. Defence witness : Nil
- C. Documents exhibited : Exhibit -1 is the Samajnama

Addl. Chief Judicial Magistrate
Udalguri, Assam.

Typed by Rupam Das/Stenographer.