

IN THE COURT OF ASSISTANT SESSIONS JUDGE::UDALGURI, ASSAM

SESSIONS-20/2019

u/s-307/294IPC

THE STATE OF ASSAM----- Smti TaruDeka(Informant).

-Vs-

SMTI MADHU TAID ----- Accused.

PRESENT: NUR MUHAMMAD ABDULLAH AHMED, (LL.M, AJS)

Asstt. Sessions Judge, Udalguri, Assam

APPEARANCE:

(1) MrB. K. Chetry : LdAddl. PP for the State.

(2)Mr M. P Rabha: LdDefence Counsel.

EVIDENCE RECORDED ON : 18.06.19, 06.07.19& 25.07.2019.

ARGUMENTS HEARD ON : 07.08.2019.

JUDGMENT DELIVERED ON :14.08.2019.

J U D G M E N T

1. The brief facts of the case leading to the prosecution of the accused Smti MadhuTaid is that on 19.11.2018 one Smti TaruDekalodged an FIR with the Officer-in-charge of Tangla PS stating *inter alia* that on that day at about 6.45 pm, Smti MadhuTaid, the wife of her son Sri PradipDeka, abused her in filthy languages and then advanced towards her with a 'dao' in order to attack her with 'dao' but she was saved by neighbouring people on alarm raised by her daughter. It is stated that abusing words like 'rendi', 'jahri', 'sleeping with other men' etc addressing the informant are daily affairs on the part of the accused.

2. On receipt of the FIR, TanglaPS Case No-180/2018, u/s-307/294 IPC was registered against the accused Smti MadhuTaid. Investigation into the case was commenced and after completion of usual investigation, charge-sheet u/s-307/294IPC was submitted against the aforesaid accused, to face the trial.

3. In due course, the case was committed to the Court of Hon'ble Sessions Judge, Udalguri by the IdCJM, Udalguri and then the case was transferred to this Court for trial.

4. Trial of the case was commenced. The accused Smti MadhuTaidappeared before the Court to face trial. After hearing both the sides and perusing the case record, charges in writing u/s-307/294 IPC were framed against the aforesaid accused. On being read over and explained the contents of the charges u/s-307/294 IPC, the accused pleaded not guilty and claimed to face the trial.

5. Points for Determination : - After considering the materials on record, I have found the following points for determination-

- I) Whether on 19/11/2018 at about 6.45 pm the accused Smti MadhuTaidmade an attempt to give a 'dao' blow on her mother-in-law in her house, with such intention and under such circumstances that, if by that act, death was caused, she would have been guilty of her murder?
- II) Whether on the same date and time, the aforesaid accused uttered obscene words like 'RENDI' in public place?

6. During the trial, the prosecution side examined as many as seven(7) witnesses namely, Smti TaruDekaas PW-1, Miss KangkanaDekaas PW-2, Sri PranabSaikia as PW-3, Sri PranabJyoti Das as PW-4, Sri PrabhatKalitaas PW-5, Sri PradipDekaas PW-6 and IO Sri IndradebGoswamias PW-7. The prosecution side exhibited the FIR as Ext-1, Seizure List as Ext-2, Sketch Map of PO as Ext-3 and Charge-sheet as Ext-4. After the closure of prosecution evidence, the accused was examined u/s-313 Cr.P.C, wherein her stand was of total denial. The accused declined to adduce defence evidence. I have also heard the arguments of both the sides.

APPRECIATION OF EVIDENCE, DECISION AND REASONS THEREOF:

7. To determine the above-mentioned points and to reach a judicial decision on the same, let me now adumbrate the germane evidences on record.

POINT NO-I:

8. Before proceeding with the appreciation of evidences of PWs, let me put on record the arguments advanced by both the sides. The Id Counsel for the accused argued that the prosecution case is a false one as the accused did not try to attack the informant with 'dao' by abusing her rather the informant used to abuse the accused for being a woman from ST community and for not being able to give birth to child after long time of marriage with her son. It was also argued by the Id defence Counsel that the informant did not want to keep her son and the accused in her house and as such she was committing mental torture on the accused. *Per contra*, the Id Addl. PP submitted that the prosecution has been able to prove its case by adducing reliable evidences.

9. Allegation of the prosecution is that the accused on 19/11/2018 at about 6.45 pm made an attempt to give a 'dao' blow on her mother-in-law (informant) in her house in an attempt to kill her. In other words, the accused has allegedly committed an offence u/s-307 IPC. In order that a person may be held guilty of attempt to murder u/s-307 IPC, the prosecution has to prove the following-

i) an intention or knowledge on the part of accused of committing

murder&

ii) the doing of an act towards it by the accused.

10. It is profitable to refer here a germane decision of Hon'ble Supreme Court passed in **HariKishan -Vs- State of Haryana** [AIR 1988 SC 2127]. In that case, the Hon'ble Supreme Court observed:

"Under Section-307 IPC, what the Court has to see is, whether the act irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in that section. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence of 'attempt to murder'. Under Section-307 IPC, the intention precedes the act attributed to

accused. Therefore the intention is to be gathered from all circumstances and not merely from consequences that ensue. The nature of the weapon used, manner in which it is used, motive for the crime, severity of the blow, the part of the body in which the injury is inflicted are some of the factors that may be taken into consideration to determine the intention”.

11. In the background of the above, let me now appreciate the germane evidence on record to determine as to whether the accused has committed the offence as alleged. In the case in hand, the prosecution stand as found from the FIR (Ext-1) is that on 19.11.2018 at about 6.45 pm, Smti MadhuTaid, the wife of her son Sri PradipDeka, abused her in filthy languages and then advanced towards her with a 'dao' in order to attack her with 'dao' but she was saved by neighbouring people on alarm raised by her daughter.

12. Informant/victim (PW-1) Smti TaruDeka stated in her deposition that her son along with the accused reside in the same compound as her in different rooms. PW-1 stated that the accused is a quarrelsome lady and the accused has the habit of using filthy words on her including the neighbours, due to which they as well as the neighbouring people were always at toes. PW-1 further stated that about six months ago, her son PradipDeka was watching TV in her room and at that time the accused called her son and told him to leave her room. At that time she (PW-1) told the accused that if her son cannot meet her, the accused along with her son may leave her house. PW-1 further stated that after that the accused came with a 'dao' and chased her and tried to attack her with 'dao' in order to kill her but her daughter Kangkana raised hue and cry, for which the local people reached her house and saved her. PW-1 further stated that earlier also such incidents took place. PW-1 also stated that the accused is still threatening to kill her. During cross-examination, PW-1 denied the suggestions put forward by the defence.

13. From the aforesaid deposition of the informant/victim (PW-1), it is evident that the accused chased her with a 'dao' and tried to attack her with 'dao'. So admittedly the accused did not attack the informant/victim (PW-1) rather the

accused tried to attack her. PW-1 further stated that then her daughter Kangkana (PW-2) raised hue and cry, for which the local people reached her house and saved her. PW-2 corroborated the stand of PW-1 when she deposed that the accused came with a 'dao' and chased her mother and tried to attack her but she raised hue and cry and then the neighbouring people saved her mother.

14. The evidence of PW-3, PW-4 and PW-5 are hearsay evidences. They deposed to the effect that the daughter of the informant (PW-2) raised hue and cry and that she was uttering the words 'maakmarile', 'maakmarile'. Then the informant's daughter told them that the accused was attacking her mother with 'dao'. They further stated that the informant (PW-1) told him that the accused wanted to assault her with 'dao'. So none of those neighbouring people stated that they saved the informant/victim (PW-1) as deposed by PW-1 rather they came to know about the incident from the informant and her daughter.

15. PW-6 Sri PradipDeka, who is the husband of the accused and son of the informant/victim, gave a totally different version of the prosecution case. PW-6 stated in his deposition that he married the accused without the consent of his mother (PW-1) and that the accused belonged to ST community and as such his mother (PW-1) was abusing his wife i.e the accused, for which he had to come back from Arunachal by leaving his job. PW-6 further stated that on the date of the incident, the accused was supposed to go to the marriage ceremony of her relative and there was some altercation between the accused and his mother (PW-1) regarding gift to be given in the marriage. Then his mother (PW-1) gave a kick in the door of his room, to which he objected. Then his sister raised hue and cry and as such people gathered in the house.

16. The argument of the defence Counsel also centered around to the point that the accused had some heated exchange with her mother-in-law (informant) and that the informant did not like his son's wife i.e the accused as she belonged to ST Community and that the accused failed to give birth to any child. Such stand of the defence is corroborated by PW-2 (daughter of the accused). PW-2 admitted that her mother (informant) did not like the accused as she is from the different caste and thus she used to abuse the accused. PW-2 further admitted that

her brother and the accused married long back but they do not have any children. PW-2 further admitted that her mother used to abuse the accused as she has no issue. Such admissions on the part of PW-2 create doubt on the veracity of prosecution case.

17. Even if the prosecution stand is believed, it can be seen that the accused had only chased the informant with 'dao'. There is no iota of evidence to the effect that the accused attacked the informant with 'dao' but the 'dao' blow did not hit her. There is no doubt that an offence u/s-307 IPC may be complete even without any injury to the victim but for that the prosecution has to prove that but for the intervention of something the accused would have inflicted fatal blow on the victim. In the instant case, the prosecution has to prove the same. Albeit the informant/victim (PW-1) deposed that she was saved by the neighbouring people but as stated above, the neighbouring people (PW-2 to PW-5) did not depose before the Court that they saved the informant/victim (PW-1).

18. Far to speak of intention or knowledge on the part of the accused to cause such injury as is necessary to constitute an offence u/s-307 IPC, the aforesaid appreciation of the evidences and in the light of aforesaid discussion, it can be said that the prosecution has even failed to prove beyond reasonable doubt that the accused attacked the informant with 'dao' in order to kill her. Such being the position, it can be said that the prosecution has failed to prove beyond reasonable doubt that the accused attempted to commit murder of the informant/victim.

19. The golden principle of criminal jurisprudence is that the prosecution has to prove its case beyond reasonable doubt and in case of any doubt, the benefit of doubt has to be given to the accused. The aforesaid discussion led me to hold that the prosecution has failed to prove beyond reasonable doubt that the accused made an attempt to kill the informant/victim. Hence the point in hand is decided against the prosecution.

POINT NO-II:

20. Further allegation of the prosecution is that accused uttered obscene words like 'RENDI' in public place. If the evidence on record is perused, it can be seen

that there is no iota of evidence to show that the accused abused the informant in public place. Under such circumstances, it can be held that the prosecution has failed to prove beyond reasonable doubt that the accused uttered obscene words like 'RENDI' in public place. Hence the point in hand is also decided against the prosecution.

21. On the basis of the above adumbration and the decisions reached in the foregoing points, it can be safely concluded that the prosecution has failed to prove its case against the accused beyond reasonable doubt. As such, the accused Smti Madhu Taid is acquitted of the charges levelled against her. So, the accused be set at liberty forthwith.

22. The bail-bond for the accused would remain in force for the next six (6) months in view of Section- 437-A CrPC.

23. Let a copy of the judgment also be sent to the Ld District Magistrate, Udalguri as per Section-365 Cr.P.C.

24. Given under my hand and seal of this Court on this 14th day of August, 2019.

(NUR MUHAMMAD ABDULLAH AHMED)

Asstt. Sessions Judge, Udalguri, Assam

APPENDIX

1. PROSECUTION WITNESSES--

I) PW-1 : Smti TaruDeka;

II) PW-2 : Miss KangkanaDeka;

III) PW-3 : Sri PranabSaikia;

IV) PW-4 : Sri PranabJyoti Das;

V) PW-5 : Sri PrabhatKalita;

VI) PW-6 : Sri PradipDeka&

VII) PW-7 : Sri IndradebGoswami.

2. PROSECUTION EXHIBITS-

I) Ext-1: FIR;

II) Ext-2 : Seizure List;

III) Ext-3: Sketch Map of PO &

IV) Ext-4 : Charge-sheet.

3. DEFENCE WITNESSES: Nil.

4. DEFENCE EXHIBIT--- : Nil.

5. COURT WITNESSES/EXHIBITS : Nil.

(NUR MUHAMMAD ABDULLAH AHMED)

Asstt. Sessions Judge, Udalguri, Assam