

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

**G.R. CASE NO. 968 of 2020
(PRC NO. 700/20)**

U/S- 342/354 I.P.C.

**Present: Smti. Ranjita Agarwalla,
Chief Judicial Magistrate,
Udalguri, Assam.**

STATE

-VS-

MD. MOSTAFA ALI

----- Accused.

For the Prosecution : Mr. M. Khakhlari, Ld. Additional P.P.

For the Defence : Mr. T.C. Boro, Ld. Advocate.

Date of Prosecution Evidence : 06-04-21 and 06-12-2021.

Date of Argument & Judgment : 06-12-2021.

J U D G M E N T

1. The brief facts of the prosecution case are that on 01-09-2020 a written ejahar was lodged at Panery Police Station by one Smti. Priya Keot, W/o Sri Diganta Baruah of village-Teliapara under Panery Police Station stating inter-alia that on 30-08-2020 at about 10 P.M. the accused Md. Mostafa Ali who is their neighbor and friend of her husband called her to gateway under the pretence of some urgent matters and when she reached there, the accused forcibly dragged her to his house by her hand and tried to outrage her modesty by trying to disrobe her

- by tugging her wearing cloth. He also damaged her mobile phone. Hence, prayed for taking necessary action against the accused as per law.
2. After receiving the ejahar to the effect aforesaid, Panery PS case No. 73/20 was registered U/S 342/354(A)/354(B)/427 I.P.C. and on completion of the investigation, the Investigating Officer submitted the charge sheet against the accused person alleging commission of offences U/S 341/323/354 I.P.C.
 3. On the basis of the charge sheet, cognizance of offence was taken under Section **190 (1)(b)** of the Cr.P.C. The processes were issued for appearance of the accused person before the Court. Accordingly, the accused appeared before the Court and on his appearance necessary copies of all relevant papers and documents were furnished to him. Finding a prima-facie case for commission of offences, though the charge sheet was submitted U/S 341/323/354 of I.P.C., but charges U/S 342/354 I.P.C. were framed, read over and explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
 4. In order to bring home the case, the prosecution examined as many as three(3) witnesses in the form of:

PW 1 Sri Sachindra Baruah

PW 2 Sri Diganta Baruah and

PW 1 Smti. Priya Keot (Informant).

The prosecution has exhibited the following document in the form of:

Ext. 1 Ejahar.

5. After recording the prosecution witnesses the accused is exempted from recording his statement U/S 313 Cr.P.C. as not implicated. Further the accused declined to adduce any evidence in defence.
6. I have heard the argument put forward by the learned Additional P.P. and the learned advocate appearing for the accused person. I have also carefully gone through the entire evidence available with the case record.
7. **POINTS FOR DETERMINATION:**
 - (I) Whether on 30-08-2020 at about 10 P.M. at village Teliapara under Panery Police Station of Udalguri district the accused wrongfully confined one Smti. Priya Keot (the informant) W/o-Sri Diganta Baruah at his residence and thereby committed an offence punishable U/S 342 I.P.C.?

- (II) Whether on the same day at the same time and place the accused person assaulted or used criminal force to the informant Smti. Priya Keot with intent to outrage her modesty or knowing thereby that her modesty would be outraged and thereby committed an offence punishable U/S 354 of I.P.C.?

DISCUSSION, DECISION AND REASONS THEREOF:

8. The vital witness **PW 3 Smti. Priya Keot**, who is the informant of this case, deposed in her evidence that the accused is known to her. In the year 2020 one day she had an altercation with her husband relating to their domestic affairs and she came to the house of the accused person. Subsequently, the matter was negotiated and as per instruction of her husband she lodged this case against the accused. Ext. 1 is the ejahar and Ext. 1(1) is her signature.
9. **PW 1 Sri Sachindra Baruah** deposed that the informant is his daughter-in-law. He heard that due to misunderstanding this instant case was lodged by his daughter-in-law and subsequently the matter has been resolved.
10. **PW 2 Sri Diganta Baruah**, the husband of the informant, stated in his evidence that he knows the accused. After their marriage his wife (informant) used to go to her paternal home and subsequently he suspected that his wife had illicit relationship with the accused
11. Now, from the material available in the case record it reveals that although in this case the ingredients of charges U/S 342/354 I.P.C. were framed, read over and explained to the accused person, but PW 3, the informant, in her evidence totally silent that in regard to the involvement of the accused person with the alleged offences. PW 3 Smti. Priya Keot clearly stated in her evidence that she had an altercation with her husband relating to their domestic affairs only and she came to the nearby house of the accused and the matter with her husband was negotiated. She lodged the ejahar against the accused as per instruction of her husband only, except that nothing was happened. PW 2 Sri Diganta Baruah, the husband of the informant stated that his wife (PW3) used to visit her paternal home frequently and hence he suspected the informant suppose to maintain any illicit relationship with the accused. In the cross examination PW 3 stated that the case was lodged due to misunderstanding only and presently the same has been negotiated. She doesn't want to proceed with the case and she has no objection

against the accused if he gets acquitted from the case. The accused neither wrongfully confined her nor outraged her modesty. Similarly, PW 2 also stated that the case was lodged due to misunderstanding only and he has too no grievances against the accused person if he gets acquitted from the case. PW 1 Sri Sachindra Baruah is mum regarding the occurrence. He only heard that due to misunderstanding a case was lodged by his daughter-in-law and subsequently the same had been sorted out.

- 12.** It is amply clear that regarding some domestic affairs the informant had an altercation with her husband and her husband (PW2) on suspicion on the character of the informant and due to misunderstanding only this instant case was lodged against the accused person by PW 3. Subsequently, the matter has been sorted out. Moreover, both the star witness PW 2 and PW 3 stated that they do not want to proceed further with the case and they have no grievances against the accused person if he gets acquitted from the case. Besides, PW 3 Smti. Priya Keot clearly stated that the accused neither wrongfully confined her nor outraged her modesty. Considering the above aspects, I come to the conclusion that the prosecution has miserably failed to prove the case against the accused person.
- 13.** Thus, from the above discussion, I find that the prosecution has failed to establish the charges U/S 342/354 I.P.C. against the accused person. In the result, the accused is not found guilty U/S 342/354 I.P.C.

O R D E R

- 14.** In the result, the accused person namely Md. Mostafa Ali is acquitted from the charges U/S 342/354 I.P.C. and he is set at liberty forthwith.

Bail bond shall remain in force for next 6 months as per provisions of Section 437(A) Cr.P.C.

Given under my hand and seal of this Court on this 6th day of December, 2021 at Udalguri, Assam.

Dictated and corrected by me:

(Ranjita Agarwalla)
Chief Judicial Magistrate.
Udalguri, Assam.

(Ranjita Agarwalla)
Chief Judicial Magistrate
Udalguri, Assam.

APPENDIX

- A. Prosecution witnesses : **PW 1 Sri Sachindra Baruah
PW 2 Sri Diganta Baruah and
PW 1 Smti. Priya Keot (Informant).**
- B. Defence witness : Nil.
- C. Documents exhibited : **Ext. 1 Ejahar.**

(Ranjita Agarwalla)
Chief Judicial Magistrate
Udalguri, Assam.