

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

**G.R. CASE NO. 387 of 2020
(PRC NO. 267/21)
U/S- 447/294/506/34 of I.P.C.**

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

STATE

-VS-

- 1. Sri Dipjyoti Nath**
- 2. Smti. Ambika Nath**

----- Accused persons.

For the Prosecution: Mr. M. Khakhlari, learned APP

**For the Defence: Mr. Manoj Deka, learned
Advocate.**

Date of Prosecution Evidence: 09-12-2021.

Argument heard on: 09-12-2021.

Judgment delivered on: 09-12-2021.

J U D G M E N T

- 1.** The brief facts of the prosecution story are that on 07.04.2020, one Sri Jonaram Nath lodged a written ejahar before the Officer-in-Charge, Tangla Police Station stating inter-alia that the accused persons Sri Dipjyoti Nath and Smti. Ambika Nath, co-villagers of the informant, suddenly taking dao, kuthar (axe) in their hands, unlawfully entered into his courtyard and scolded him with slang languages. Moreover, they chased him and threatened him and his wife. Hence, he lodged this case praying for taking necessary action against the accused persons.
- 2.** After receiving the ejahar to the effect aforesaid, the Officer-in-Charge, Tanga PS registered a case vide Tangla PS case no. 62/20 was registered U/S 447/294/506/34 of I.P.C. and on completion of the investigation, the Investigating Officer submitted the charge sheet against the accused persons alleging commission of offences U/S 447/294/506/34 of I.P.C.
- 3.** On the basis of the charge sheet, cognizance of offences was taken under Section **190 (1)(b)** of the Cr. PC. The processes were issued for causing appearance of the accused persons before the Court. Accordingly, the accused persons appeared before the Court and on their appearances, necessary copies

of all relevant papers and documents were furnished to them. Finding a prima-facie case for commission of offences, the particulars offences U/S 447/294/506/34 of I.P.C. were stated and explained to the accused persons to which they pleaded not guilty and claimed to stand trial.

4. In order to bring home the case, the prosecution examined only one(1) PW in the form of:

PW 1 Sri Jonaram Nath (informant)

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

Ext. 1 Ejahar.

5. After recording the prosecution witness the accused persons are exempted from recording their statements U/S 313 Cr.P.C. as not implicated. Further the accused persons 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 persons. I have also carefully gone through the entire evidence available with the case record.

7. POINTS FOR DETERMINATION OF THE CASE:

- (I)** Whether on 07-04-2020 at about 5 P.M. at village Rupakhat under Tangla Police Station the accused persons in furtherance of their common intention committed criminal trespass by entering into the campus of the informant Sri Jonaram Nath with intent to commit an offence and thereby committed an offence punishable U/S 447/34 of I.P.C.?
- (II)** Whether on the same day at the same time and same place, the accused persons in furtherance of their common intention, uttered obscene words to the informant which caused annoyance to others and thereby committed an offence punishable U/S 294/34 of I.P.C.?
- (III)** Whether on the same day at the same time and same place, the accused persons in furtherance of their common intention, committed criminal intimidation to the said informant and his wife by threatening them with dire consequences which cause alarm to them and thereby committed an offence punishable U/S 506/34 of I.P.C.?

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** Now, let us scrutinize the evidence on record. The star witness **PW1 Sri Jonaram Nath**, who is the informant of this case, stated in his deposition that the accused persons Sri Dipjyoti Nath and Smti. Ambika Nath are known to him as they are his brother and sister-in-law. On 07-04-2020 they had an altercation relating to their ancestral property. As such PW1 lodged this case in anger against the accused persons as the accused persons also lodged a case against him. Ext. 1 is the ejahar and Ext. 1(1) is his signature.
- 9.** Now, from the material available in the case record it reveals that although in this case the particulars of offences U/S 447/294/506/34 of I.P.C. were stated and explained to the accused persons, but the informant (PW1) who is the sole witness of the case, has disclosed in his examination-in-chief regarding the offence u/s 447 IPC that the accused persons are his own brother and sister-in-law. Moreover, they are living under the same roof. Therefore, as such, the accused persons unlawfully entering into the courtyard of the informant does not arise here.
- 10.** Pertaining to the offence u/s 294 IPC i.e., uttering obscene words, PW1 in his cross-examination negate

the same as well as PW1 in his examination-in-chief is silent in this context. Although, PW1 in the FIR stated that the accused persons scolded him with filthy language but he has not mentioned about the said scolding by the accused persons.

- 11.** In regard to the offence u/s 506 IPC the informant is silent in his examination-in-chief and negate as same as in his cross-examination. Although he mentioned in Ext. 1 FIR that the accused persons threatened him to kill but, PW1 did not disclose the same in his evidence. PW 1 in cross examination clearly stated that the accused neither uttered any obscene words not threatened him. Out of misunderstanding only, this case was lodged by PW 1 against the accused. Considering the above aspects, I come to the conclusion that the prosecution has failed to prove the case against the accused person.

- 12.** Thus, from the above discussion, I find that the prosecution has miserably failed to establish the offences U/S 447/294/506/34 of I.P.C. against the accused persons. In the result, the accused is not found guilty U/S 447/294/506/34 of I.P.C.

ORDER

- 13.** The accused persons namely Sri Dipjyoti Nath and Smti. Ambika Nath are acquitted from the offences U/S 447/294/506/34 of I.P.C. and they are set at liberty forthwith.
- 14.** Bail bond shall remain in force for next 6 months as per provisions of Section 437(A) Cr.P.C.
Given under the hand and seal of this Court on this 9th day of December, 2021 at Udalguri, Assam.

(Ranjita Agarwalla)
Chief Judicial Magistrate
Udalguri, Assam.

Dictated and corrected by me:

(Ranjita Agarwalla)
Chief Judicial Magistrate
Udalguri, Assam.

APPENDIX

A. Prosecution witnesses: **PW1 Sri Jonaram Nath
(informant)**

B. Defence witness : Nil.

C. Documents exhibited : **Ext. 1 FIR**

(Ranjita Agarwalla)
Chief Judicial Magistrate
Udalguri, Assam.