

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS :
DIBRUGARH

PRESENT : Smti. Zohra Yasmin, A.J.S.,

Judicial Magistrate First Class,

Dibrugarh

Advocate for the Prosecution : Sri. M.Dutta, A.P.P.

Advocate for the accused : Sri. Raju Sarmah

G.R. Case No. 1253 of 2017

State of Assam

-VS-

Sri. Shyam Tanti

Sri. Bipul Mirdha Accused persons

Under Sections 447/341/324/427/506/34 I.P.C.

Offence explained on 12.01.2018

Evidence recorded on 03.02.2021 & 20.03.2021

Arguments heard on 29.11.2021

Judgment delivered on01.12.2021

J U D G M E N T

- 1) The prosecution story in brief is that on 18.04.2017 an Ejahar was lodged by the informant Smt. Rina Murari alleging inter alia that on 17.04.2017, at around 7PM, when her husband Sri Robin Murari was going towards the Central Hospital of Dirial Tea Estate the accused persons Sri Shyam Tanti and Sri. Bipul Mirdha assaulted him with a sharp weapon. Thereafter, the accused persons entered her house and vandalized the things at her house and also threatened all her family members. Hence, the Ejahar was lodged by the informant.
- 2) On receipt of the Ejahar, Duliajan P.S. Case No.136/2017 was registered and after the investigation police submitted the charge-sheet against the accused persons Sri. Shyam Tanti and Sri. Bipul Mirdha under Sections 341/323/448/427/506/34 of Indian Penal Code before the Learned Chief Judicial Magistrate, Dibrugarh.
- 3) On 12.01.2018 the accused persons appeared before the court upon receiving summons, and on finding prima facie materials against the accused persons particulars of offences under Sections 447/341/324/447/427/506/34 were explained to the accused persons to which they pleaded not guilty and claimed to be tried.
- 4) In support of the case, the prosecution has examined two witnesses and Thereafter, Sri. Robin Murari was called as court witness being the victim of the case.

- 5) After the prosecution evidence was over, the accused persons was examined under Section 313 Cr.P.C wherein they had denied the prosecution case and also declined to adduce any defence evidence.
- 6) I have heard the arguments of both sides.
- 7) Considering the materials on record and after hearing the arguments of both sides, the following points are taken as points for determination-

POINTS FOR DETERMINATION-

- (i) Whether the accused persons on 17.04.2017 at about 7pm Sri. Shyam Tanti and Sri. Bipul Mirdha in furtherance of their common intention, criminally trespassed into the house belonging to the informant Smt. Rina Murari with the intention of committing an offence and thereby liable to be punished under Section 447/34 IPC?
- (ii) Whether the accused persons, on 17.04.2017 at about 7pm Sri. Shyam Tanti and Sri. Bipul Mirdha in furtherance of their common intention, wrongfully restrained the husband of the informant Sri robin Murari, and thereby committed an offence under Section 341/34 IPC?
- (iii) Whether the accused persons on 17.04.2017 at about 7pm Sri. Shyam Tanti and Sri. Bipul Mirdha in furtherance of their common intention, at near Dirial Tea Estate voluntarily caused hurt

to the victim Robin Murari with sharp weapon and thereby committed an offence punishable under Section 324/34 IPC ?

- (iv) Whether the accused persons had on the same date, time and place in furtherance of their common intention, criminally intimidate the informant by threatening her with dire consequences and thereby liable to be punished under Section 506/34 IPC?
- (v) Whether the accused persons had on the same date, time and place in furtherance of their common intention, committed mischief amount of rupees fifty or more caused damage to the household articles of the informants house and thereby committed an offence punishable under Section 427/34 IPC?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 8) PW 1, Smti. Rina Murari is the informant in the case. She has deposed in her evidence-in-chief that on the date of occurrence an altercation was taking place between the informant and her husband. In the mean time, the accused persons came to their house and an altercation took place between the informant and the accused persons. After the incident, the informant lodged the ejahar out of anger. Exhibit 1 is the ejahar and Exhibit 1 (1) is her signature.
- 9) In her cross-examination, PW1 has deposed that the matter has been amicably settled between them and she has no allegations against the accused persons.

- 10) PW2 is Sri. Nayan Bhumij. He has deposed in his evidence-in-chief that he knows the informant as well as the accused persons. On the date of occurrence, due to some misunderstanding an altercation was took place between accused persons and the informant.
- 11) Cross-examination of PW2 has been declined by the defence side.
- 12) CW1, Sri. Robin Murari is the husband of PW1/Informant. He has deposed in his evidence-in-chief that he knows the accused persons. on the date of occurrence on 17.04.2017 a scuffle took place between him and the accused persons. police recorded his statement. The matter has been now amicably settled between both the sides.
- 13) In his cross-examination, CW1 has stated that the matter has been now amicably settled between the parties.
- 14) From the evidence of all the prosecution witnesses, it is seen that none of the witnesses has stated anything incriminating against the accused persons. The witnesses have deposed that on the date of occurrence an altercation took place between the accused persons and the informant.
- 15) In a criminal case, the prosecution must prove the guilt of the accused beyond all reasonable doubt. In this instant case, the prosecution has been unable to prove the guilt of the accused persons beyond reasonable doubt. There is nothing incriminating in this case to convict the accused persons under the section brought against them. As a result of which accused persons Sri. Shyam Tanti and Sri. Bipul Mirdha are acquitted from the offences under Sections 447/341/324/427/506/34 IPC in this case and they are set at liberty forthwith.

ORDER

- 16)The accused persons Sri. Shyam Tanti and Sri. Bipul Mirdha are acquitted from the offences under Section 447/341/324/427/506/34 IPC in this case and they are set at liberty forthwith.
- 17)The bail bond of the accused persons are extended for six months from today as per the provisions of Section 437A CrPC.
- 18)The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 1st day of December, 2021 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) PW1 Smti. Rina Murari (Informant)
- 2) PW2 Sri. Nayan Bhumij
- 3) CW1 Sri. Robin Murari

PROSECUTION EXHIBITS:

- 1) Exhibit 1- Ejahar
- 2) Exhibit 1(1) - signature of the informant.

DEFENCE WITNESSES:

None

DEFENCE EXHIBITS:

NIL

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH