

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

PRC 860/2019 (GR- 2501/2018)

Under Section 294 and 323 of the Indian Penal Code

The State of Assam

Versus

Sri Rajen Dihingia

.... Accused Person

R/O- Naharani Borbam Gaon,
PS- Moran, Dibrugarh

Present: Rinku Boro, AJS

Advocate appearing for the State : Learned APP Sri L. Deori

Advocate appearing for the Accused persons: Learned Advocate

Smti Manashi Baruah

Dates of recording Evidence : 17.12.2021

Date of hearing Argument : 17.12.2021

Date of delivering Judgment : 17.12.2021

JUDGMENT

CASE OF THE PROSECUTION:

1. The prosecution briefly narrated that the informant/complainant Sri Kamal Lahon Son of Late Sri Pramod Lahon of Naharani Tiniali made a written complaint alleging that on 16.07.2018 at around 10.30 PM his uncle Rajen Dihingia resident of Naharani Borbam Gaon came at his house and informed him that his son-in-law was creating nuisance at his home and requested him to go and talk to his son-in-law. Thereafter, he and his brother-in-law took his uncle Rajen Dihingia on his bolero pick-up vehicle No. AS 04 AC 6174 and reached his uncle's house. On reaching at his uncle's house, his uncle slapped his son-in-law and started pushing him due to which there was damaged in the house, when he intervened his uncle started quarrelling with him and hurled abuses to him, bite him on his stomach and also damaged his vehicle by smashing the glasses and deflating the vehicle tyres. Later on, his family members came and rescued him.

ALLEGATIONS and INVESTIGATION:

2. On receipt of the FIR, the Officer-in-charge of Moran police station registered a case being Moran P.S. Case No. 194/2018 under Sections 294, 325 and 427 of Indian Penal Code against the accused person namely, Sri Rajen Dihingia. The investigating officer A.S.I. Bhabani Sonowal carried out the investigation in the matter. During the course of investigation, the IO examined the witnesses u/s section 161 Cr.P.C, prepared one sketch map of the

place where the offence was allegedly committed and then after completion of the investigation finally submitted charge-sheet finding sufficient materials against the accused person namely Sri Rajen Dihingia U/s 294, 323 of IPC.

CHARGE AND OFFENCE EXPLANATION:

3. On issuance of process, as per Section 204 (1) (b) accused person were called upon to enter trial and copies of all the relevant documents u/s Section 173 was furnished to the accused person in compliance with Section 207 Cr.P.C. Upon hearing and on perusal of case records and hearing both the sides cognizance of the alleged offence under Section 294, 323 of the Indian Penal Code was taken and accordingly offences under Section 294, 323 of IPC was framed and which was also read over and explained to the accused person to which he pleaded not guilty and claimed to be tried. Thereafter summons was issued to the prosecution witnesses.

TRIAL

4. During the trial of the case, the prosecution side examined 1 (one) prosecution witnesses and 1(one) Exhibit in this case. Learned APP requested to close further prosecution witness. Accordingly, at the request of the learned APP, the prosecution evidence was closed. The examination of the accused person under section 313 of Cr.P.C. has been dispensed with finding no any incrementing materials against the accused person. The defence did not adduce any evidence.

POINTS FOR DETERMINATION:

5. I have heard the learned counsel for the accused and learned assistant public prosecutor for the state. Having heard both sides and after perusing the materials on record, the following point for determination is framed for the just decision of the case: -
- (i) Whether the accused person, on 16.07.2018, at about 10:30 p.m., uttered obscene words to the informant and hence liable to be punished under Section 294 IPC?
- (ii) Whether the accused person on the same date and time and at the same place voluntarily caused hurt to the informant and hence liable to be punished under Section 323 of Indian Penal Code?

DECISION AND REASONS THERE OF:

6. PW1 Sri Kamal Lahon deposed and stated in his examination-in-chief that the incident occurred in the year 2018, at around 12:30 AM. He had gone at his uncle's house at his bolero pick-up vehicle. At his uncle's house he had some argument with his uncle and due to which he got angry and later lodged a case his uncle. Exhibit 1 is the Ejahar and Exhibit1 (1) is his signature. But now he does not wish to proceed with the case. He had lodged the case due to misunderstanding with his uncle.

ANALYSIS OF EVIDENCE:

7. Thus, from the evidence of the sole evidence it appears that the fact of the case is the outcome of the misunderstanding between both sides and hence consideration of other evidence of the prosecution will bear no relevance or would give no further conclusion in the case.

8. Hence, considering the evidence of the PW- Sri Kamal Lahon entirely, I did not find any evidence to hold that the accused person has committed any offence under Sections 294 and 323 IPC beyond all reasonable doubts.

9. From the above discussion and examination of witness, it can be summarised that the prosecution has failed to prove the commission of offences under Section 294 and 323 of the Indian Penal Code against Sri Rajen Dihingia.

10. Conclusively, having consideration of the evidence available on record including the facts and circumstances till this point I found the points of determination are decided in negative and the accused person is entitled for acquittal. Accordingly, the accused person Sri Rajen Dihingia is found not guilty and hence, acquitted from the charge U/s 294 and 323 of IPC.

ORDER

11. In view of the discussion made above and the decisions reached in the foregoing point for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused person namely, Sri Rajen Dihingia had committed the offence under Sections 294, 323 of the Indian Penal Code as alleged.

12. As such the accused person namely, Sri Rajen Dihingia is acquitted of the charge under Sections 294, 323 of the Indian Penal Code and he is set at liberty forthwith.

13. The bail bond of the accused person shall remain valid for six months from today as per section 437 of the Cr.P.C.

14. Pronounced by me on this open Court, this 17th day of December, 2021 under my hand and seal of this Court.

(Rinku Boro)
Judicial Magistrate First Class

APPENDIX

Prosecution Witness

PW1 –Sri Kamal Lahon

Prosecution Exhibits

Exhibit 1 - FIR

Exhibit 1 (1) - Signature of the Informant Sri Kamal Lahon

Defence Witness

Nil

Defence Exhibits

Nil

(Rinku Boro)
Judicial Magistrate First Class