

G.R. CASE NO.- 1284/2020

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. K.K. Gogoi

G.R. Case No. 1284 of 2020 (P.R.C. No. 825/2020)

State of Assam

-VS-

Sri. Rittick Gogoi @ Bhaity

Sri. Nilutpol Gogoi Accused persons.

Under Sections 447/324/34 of I.P.C.

Charge framed on 15.11.2021

Evidence recorded on 07.12.2021

Arguments heard on 07.12.2021

Judgment delivered on 18.12.2021

J U D G M E N T

- 1) The prosecution story in brief is that on 28.03.2020 an Ejahar was lodged by the informant Smti. Rupamoni Gogoi alleging that on 27.03.2020 at 2pm, the accused persons entered her house unlawfully and assaulted the husband of the informant Sri Khagen Gogoi with a dao. Hence, the Ejahar was lodged by the informant.
- 2) On receipt of the Ejahar, Tingkhang P.S. Case No. 81/2020 was registered and after the investigation police submitted the charge-sheet being charge-sheet no. 47/2020, dated 30.04.2020 against the accused persons Sri. Rittick Gogoi @ Bhaity and Sri. Nilutpol Gogoi under Section 188/447/324/34 of Indian Penal Code before the Learned Chief Judicial Magistrate, Dibrugarh.
- 3) On 15.11.2021, the accused person appeared before the court and on finding sufficient materials against the accused persons for offences under Sections 447/324/34 IPC, formal charge under the aforesaid section was framed against the accused persons to which they pleaded not guilty and claimed to be tried.
- 4) In support of the case, the prosecution has examined three witnesses.
- 5) After the prosecution evidence was over, the accused persons were examined under Section 313 Cr.P.C wherein they had denied the prosecution case and also declined to adduce any defence evidence.

G.R. CASE NO.- 1284/2020

- 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 Sri. Rittick Gogoi @ Bhaity and Sri. Nilutpol Gogoi in furtherance of their common intention, on 27.03.2020, at about 2pm, criminally trespassed into the land belonging to the informant Smt. Rupamoni Gogoi with the intention of committing an offence and thereby liable to be punished under Section 447/34 IPC?
- (ii) Whether the accused persons Sri. Rittick Gogoi @ Bhaity and Sri. Nilutpol Gogoi in furtherance of their common intention, on 27.03.2020, at about 2pm, voluntarily caused hurt to the victim Khagen Gogoi and his daughter Miss Dimpri Gogoi by means of a sharp weapon (DA) and thereby committed an offence punishable under Section 324/34 IPC ?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 8) Let me discuss the evidence of the prosecution witnesses and try to arrive at a definite finding as regards the point for determination.

G.R. CASE NO.- 1284/2020

- 9) PW 1 (the informant) Smti. Rupamoni Gogoi has deposed in her evidence-in-chief that she is the informant and she knows the accused persons. The incident took place in the year 2020. On the date of occurrence an altercation took place between her and the accused persons and she lodged the ejahar out of anger. Exhibit 1 is the ejahar and Exhibit 1(1) is her signature.
- 10) PW1 in her cross examination has stated that due to some misunderstanding the FIR was lodged and she does not want to proceed this case.
- 11) PW2, Sri. Khagen Gogoi is the victim of the case. He has deposed in his evidence-in-chief that the informant is his wife and he knows the accused person very well. The incident took place one year ago. On the date of occurrence a quarrel took place between him and the accused persons. He informed the matter to PW1 and PW1 lodged the ejahar out of anger.
- 12) In his cross-examination, he stated that the he does not want to proceed this case.
- 13) PW3 is Miss Dimpri Gogoi has deposed in her evidence-in-chief that informant is her mother and accused persons are her brother. She does not know anything about the incident.
- 14) Cross-examination of PW3 has been declined.

G.R. CASE NO.- 1284/2020

- 15) During the evidence of these PW's none of the prosecution has deposed anything incriminating against the accused persons. Hence, it is held that no such essential elements of the above mentioned section could be proved by the prosecution beyond reasonable doubt.
- 16) In the case of **V.D. Jhingan vs. State of Uttar Pradesh AIR 1966 SC 1762** the honorable Supreme Court has held that it is also the cardinal rule of our criminal jurisprudence that the burden in the web of proof of an offence would always lies upon the prosecution to prove all the facts constituting the ingredients beyond reasonable doubt. If there is any reasonable doubt, the accused is entitled to the benefit of the reasonable doubt.
- 17) In the light of the above discussion, it is held that the prosecution has failed to prove the guilt of the accused persons beyond all reasonable doubt under Sections 447/324/34 of the Indian Penal Code. There is nothing incriminating to convict the accused persons under the sections brought against them. As a result of which accused persons Sri. Rittick Gogoi @ Bhaity and Sri. Nilutpol Gogoi are acquitted from the offences under the above mentioned sections of law in this case and he is set at liberty forthwith.

ORDER

- 18) In the light of the above discussion, it is held that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt under Sections 447/324/34 of IPC. As a result of which accused persons Sri. Rittick Gogoi @ Bhaity and Sri. Nilutpol Gogoi are acquitted from the offences under the above mentioned sections of law in this case and they are set at liberty forthwith.
- 19) The bail bond of the accused persons are extended for six months from today as per the provisions of Section 437A CrPC.
- 20) The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 18th day of December, 2021 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) PW1 Smti. Rupamoni Gogoi (informant)
- 2) PW2 Sri. Khagen Gogoi
- 3) PW3 Miss. Dimpri Gogoi

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