

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 : Smti. P. Baruah

G.R. Case No. 1682 of 2020 (P.R.C. No. 823/2020)

State of Assam

-VS-

Sri. Jimpu Patra

Sri. Hidhartha Patra

Sri. Rajib GohainAccused persons

Under Sections 447/294/506/34 I.P.C.

Offence explained on14.09.2021

Evidence recorded on 08.12.2021

Arguments heard on 08.12.2021

Judgment delivered on 22.12.2021

J U D G M E N T

- 1) The prosecution story in brief is that on 11.05.2020 an Ejahar was lodged by the informant Sri. Manab Jyoti Gogoi alleging inter alia that on 10.05.2020, at around 11.10 PM, the accused persons Sri. Jimpu Patra, Sri. Hidhartha Patra and Sri. Rajib Gohain entered his house unlawfully and abused the informant Sri. Manab Jyoti Gogoi in filthy

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language and also assaulted him and threatened them of dire consequences. Hence, the Ejahar was lodged by the informant.

- 2) On receipt of the Ejahar, Barbaruah P.S. Case No.138/2020 was registered and after the investigation police submitted the charge-sheet against the accused person Sri. Jimpu Patra, Sri. Hidhartha Patra and Sri. Rajib Gohain under Sections 447/294/506/34 of Indian Penal Code before the Learned Chief Judicial Magistrate, Dibrugarh.
- 3) On 14.09.2021 the accused persons appeared before the court on receiving summons, and on finding prima facie materials against the accused persons particulars of offences under Sections 447/294/506/34 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 one witness.
- 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 Sri. Jimpu Patra, Sri. Hidhartha Patra and Sri. Rajib Gohain, in furtherance of their common intention, on 10.05.2020, criminally trespassed into the land belonging to the informant Sri. Manab Jyoti 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. Jimpu Patra, Sri. Hidhartha Patra and Sri. Rajib Gohain on 10.05.2020, at about 11.10pm, in furtherance of their common intentions, had uttered obscene words in public place to informant Sri. Manab Jyoti Gogoi and thereby committed an offence punishable under Section 294/34 IPC?
- (iii) Whether the accused persons had on the same date, time and place in furtherance of their common intention, criminally intimidated the informant by threatening him with dire consequences and thereby liable to be punished under Section 506/34 IPC?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 8) PW 1, Sri. Manab Jyoti Gogoi is the informant in the case. He has deposed in his evidence-in-chief that on the date of occurrence, due to some misunderstanding an altercation took place between the accused person and informant. After the incident, the accused person lodged the ejahar out of anger. Exhibit 1 is the ejahar and Exhibit 1 (1) is his signature. In his cross-examination, he has stated that he does not want to proceed with this case.
- 9) From the evidence of PW1 who is the informant as well as the victim of the case, it is seen that he has stated anything incriminating against the accused persons. The witness has deposed that on the date of occurrence an altercation took place between the accused persons and the informant.
- 10) 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. Jimpu Patra, Sri. Hidhartha Patra and Sri. Rajib Gohain are acquitted from the offences under Sections 447/294/506/34 IPC in this case and they are set at liberty forthwith.

ORDER

- 11) The accused persons Sri. Jimpu Patra, Sri. Hidhartha Patra and Sri. Rajib Gohain are acquitted from the offences under Section 447/323/294/506/34 IPC in this case and they are set at liberty forthwith.
- 12) The bail bond of the accused person is extended for six months from today as per the provisions of Section 437A CrPC.
- 13) The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 22nd day of December, 2021 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) Sri. Manab Jyoti Gogoi (Informant)

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