

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS, DIBRUGARH**

G.R. Case No: 1545/2011

Under sections 354 of Indian Penal Code

State of Assam

vs.

Sri Sajit Khound

.....accused person

PRESENT: DEEPSIKHA DAS, A.J.S.

Appearing for the state: Learned Gopa Chakraborty

Appearing for Defence: Learned Sri Amalendu Phukan

Evidence recorded on: 5/11/2019 and 1/12/2021

Arguments heard on: 22/12/2021

Judgment delivered on: 29/12/2021

JUDGMENT

Case of the prosecution

1. The case of the informant/victim Mr Nitul Dihingia as reflected in the ejahar in brief is that on 31/7/2011 at about 9.30 am, while the daughter of the informant was alone at his house, one Sajit Khound came to his house and by giving hundred rupee note and also enticing her to give chocolate and biscuits, tried to outrage her modesty

- 2.** forcefully by touching her private body parts.
Hence the case.
- 3.** The ejahar was registered as Chabua P.S. Case No. 103/2016 under sections 120B, 448, 376, 511 and 324 IPC. The police after investigation submitted charge sheet against the accused person Sajit Khound under section 354 IPC.
- 4.** This Court took cognizance under sec 190(b) CrPC and issued summons to the accused under sec 204 CrPC. On appearance of the accused, copies of relevant documents were furnished to him as per section 207 CrPC. After hearing the Learned Counsels of both sides, finding grounds to presume that accused had committed the alleged offence, my predecessor has framed formal charge under Section 354 of IPC, charges were read over and explained to the accused to which he pleaded not guilty and claimed to be tried.
- 5.** Trial commenced. The prosecution examined 2(two) witnesses including the informant. The statement of the accused person under section 313, CrPC was dispensed with as there was no incriminating material. I have heard both sides and perused the evidence on record.

6. Heard the arguments advanced by the Learned Counsel appearing for the informant and the accused.

Points for determination

7. I) Whether the accused person namely Sajit Khound, had used criminal force to Smti Sumi Dihingia, the daughter of the informant intending to outrage her modesty and thereby committed offence punishable under section 354 of IPC?
8. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

DECISION AND REASONS THEREOF:

9. To arrive at a judicious decision, the materials on record, including the evidence recorded is gone through carefully, in the light of submission heard and appreciated as follows—
10. In his evidence, **pw1 Nitul Dihingia** (informant) stated that he was the informant. He knew the accused. He stated that the incident was about 8/9 years before recording his deposition. He stated that he filed the case due to misunderstanding. He further stated that no serious incident occurred as mentioned in the ejahar. He identified the ejahar as the exhibit 1 and exhibit

1(1) as his signature. He stated that he did not have any allegation against the accused.

In his cross examination he stated that he did not have any objection if the accused is acquitted. He stated that the matter has already been settled in his village meeting.

11. PW2, Sumi Dihingia (victim) stated that the accused is her relative uncle. She stated that her father lodged the case as the accused scolded her. She stated that things were normal and she did not want to proceed with the case.

In her cross examination, she stated that she does not have any objection if the accused is acquitted in the instant case.

12. Situated thus, from the scrutiny of record in absence of any incriminatory material against the accused, it can be inferred that the accused did not commit any offence as alleged in the ejahar. Thus, in view of the above testimony of pw1 (informant) and PW2(victim), I find no ground to hold the accused person guilty of the alleged offences.

ORDER

13. Accordingly, the accused Sajit Khound is acquitted of the offence punishable under section

354 of the Indian Penal Code and set at liberty forthwith.

- 14.** The bail bond furnished, shall remain in force till six months from today, as required under sec 437A CrPC.
- 15.** The case is disposed of on contest.
- 16.** Given under my hand and seal of this Court on this 29/12/2021.

Deepsikha Das
Judicial Magistrate First Class,
Dibrugarh

Appendix

Prosecution Witnesses:

PW-1: Nitul Dihingia

PW-2 Sumi Dihingia

Defence Witnesses: None.

Prosecution Exhibits:

Annexure 1: Ejahar

Defence Exhibits None.

Deepsikha Das
Judicial Magistrate First Class,
Dibrugarh.