

G.R. Case No: 2566/2016

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

G.R. Case No: 2566/2016

Under sections 294, 447 and 506 read with 34 IPC

State

v.

1. Sri Jadunandan Singh
2. Sri Sanjeev Kumar Singh
3. Smti Sangeeta Devi

.....accused persons

Evidence recorded on: 13/3/19 and 6/5/19.

Arguments heard on: 24/12/2021

Judgment delivered on: 24/12/2021.

Appearing for Prosecution: Learned Assistant P.P. Smt
Gopa Chakraborty

Appearing for Defence: Learned advocate Sri
Partha Pratim Dutta

JUDGMENT

- 1.** The genesis of this case had its roots with the lodging of the ejahar, wherein the informant, **Sri Angad Singh**, has alleged inter alia that on 7/9/2016 around 6:00 a.m., when his worker and he opened his rented shop (small tea shop) at that time suddenly the lessor's family, namely Sangeeta Devi, Sanjeev Singh and Jadu Nandan Singh have entered forcibly at his said shop and they started to abuse with filthy language to him and his worker and threatened him to kill if he shall not close and vacate his rented shop.

- 2.** The ejahar was registered as Duliajan P.S. Case No. 337/2016 under sections 447, 294 and 506 read with sec 34 IPC. The police after investigation submitted charge sheet against the accused persons namely Sangeeta Devi, Sanjeev Singh and Jadu Nandan Singh under sections 447, 294 and 506 read with sec 34 IPC.

- 3.** Cognizance was accordingly taken. On appearance of the accused, copies of relevant documents were furnished to the accused persons namely Sangeeta Devi, Sanjeev Singh and Jadu Nandan Singh in compliance with section 207 CrPC. The particulars of offences under sections 447, 294 and 506 read with

sec 34 IPC were explained to them, to which they pleaded not guilty and claimed to be tried (**trial commenced**).

4. During the trial, the prosecution examined 2(two) witnesses including the investigating officer as well as the informant. The statement of the accused persons was recorded u/s 313 CrPC. The defence declined to adduce any evidence.
5. I have heard both sides and perused the evidence on record.

Points for Determination

- i) Whether the accused persons, in furtherance of their common intention have entered into the shop of the informant with intent to commit an offence or to intimidate, insult or annoy them and thereby committed an offence punishable under section 447, read with sec 34 IPC?
- ii) Whether the accused persons, in furtherance of their common intention have uttered obscene words against the informant, in or near any public place to the annoyance of other persons, and

thereby committed an offence under section 294 read with sec 34 IPC?

- iii) Whether the accused persons at the said relevant time and place, in furtherance of their common intention had criminally intimidated the informant and his worker and thereby committed offence punishable under sec 506 read with sec 34 of IPC?

Decisions and Reasons Thereof

- 6.** To arrive at a judicious decision, I have gone through the materials on record, including evidence recorded and in the light of arguments heard, appreciated evidence as follows:

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- 7. PW1, Mukesh Singh** stated in his evidence in chief that he is the son of the informant Angad Kumar Singh, who expired on 26/8/2018. He stated that in 2016, one day at about 6 pm, he was informed over phone by the worker of their tea shop at Duliajan Daily market that the accused persons scolded him badly and threatened him to kill him and that they will pour hot oil over him and that they will also break the furniture of the shop. When pw1 reached there, the accused persons started to altercate with

him also. After that his father also came there. He mentioned that there was a civil case pending in the court between them. On the basis of that case, this case is filed. He identified exhibit 1 as the ejahar lodged by his father and recognised exhibit 1(2) as the signature of his father. He stated that police interrogated with him.

In his cross examination, Pw1 stated that he did not know by whom the ejahar was dictated. He stated that the accused persons filed case against them for eviction of the shop. He stated that he forgot the name of the worker with whom the incident was alleged to be occurred. He also stated that he did not know whether his father has mentioned the name of the worker in the ejahar or not. He stated that he did not witness the incident. He denied the suggestion that his father lodged the case falsely.

8. PW2, Bisesh Mandal stated in his evidence in chief that he knew the informant. He stated that the accused persons had shops in Duliajan Daily Market. They used to lease that shop. He stated that informant Angal Kumar Singh had taken that shop on rent and opened a mobile shop. Angad Singh let pw2 to open shop, due to the informant's business

loss. Pw2 stated that he went to that shop for opening a tea stall. The accused persons restrained him. Therefore Angad Singh filed this instant case.

In his cross examination, Pw2 stated that he did not know whether the informant was the owner of the said shop. He stated that he was aware that the accused persons were owners of the shop. He also stated that there was no agreement between him and the informant for opening any shop. He further stated that the informant was sub-leasing the shop to him. The informant did not take permission from the owners before sub leasing the shop. He stated that he did not know whether there was any civil case pending between the informant and the accused persons. He denied the suggestion that no incident happened as mentioned.

Appreciation of evidence

Point for determination no 1 and 2

- 9.** In this instant case the informant expired before he could be examined. Only two witnesses were examined, one was the son of the informant and other was the victim himself.

Pw1 was not fully aware about the incident. He was not at the place of incident. There was none to corroborate the version of the FIR. Pw2 was the victim who himself stated that the accused persons were owners of the shop. He also stated that there was no agreement between him and the informant for opening any shop. He further stated that the informant was sub-leasing the shop to him. The informant did not take permission from the owners before sub leasing the shop. He did not mention about any use of filthy language or any threatening by the accused persons. He did not tell anything as written in the ejahar. He was the victim and his version is very much important to convict or acquit the accused in a case.

Thus, from the evidence of the witnesses, it is seen that the witnesses were unable to prove the guilt of the accused.

- 10.** During the evidence of these PW'S none of the ingredients of sections 447, 294 and 506 could be brought forwarded by the prosecution during the course of evidence. Hence, this court finds itself difficult that no such essential elements of the above mentioned sections could be proved by the prosecution beyond reasonable doubt.

- 11.** The golden rule of criminal jurisprudence is that an accused is presumed to be innocent unless he is found guilty of the charged offence.

- 12.** In the case of **V. D. Jhingan V. State of Uttar Pradesh the hon'ble 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 lie 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.

- 13.** A person has, no doubt, a profound right not to be convicted of an offence which is not established by the evidential standard of proof beyond reasonable doubt.

- 14.** In the light of the above discussion & reasons, I am of the opinion that the prosecution has failed to prove the case against the accused persons beyond reasonable doubt. Hence, the accused persons deserve to be acquitted of the offences levelled against them.

15. Thus, it is apparent that there is no direct evidence to suggest that the accused were illegally entering into the shop of the informant, they used filthy language and threatened him. Hence, it is held that the prosecution has failed to implicate the accused persons of any offence.

16. So, I am of the conclusive opinion that the prosecution has failed to bring home the accusation under section 447, 294 and 506 of the Indian Penal Code.

ORDER

17. In view of the foregoing discussion, I am of the considered opinion that accused persons namely Sangeeta Devi, Sanjeev Singh and Jadu Nandan are acquitted of the charges under section 294, 447 and 506 r/w sec 34 of the Indian Penal Code and as such they are set at liberty forthwith.

18. Consequently, the bail bond of the accused persons shall remain in force for a further period of six months from today.

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19. Given under my hand and the seal of this Court on this the 24th day of December, 2021.

Deepsikha Das
Judicial Magistrate First Class,
Dibrugarh

Appendix

Prosecution Witnesses:

PW-1: Mukesh Singh

PW-2: Bishesh Mondal

Defence Witnesses: None.

Prosecution Exhibits:

Ext-1: Ejahar

Defence Exhibits None.

Deepsikha Das
Judicial Magistrate First Class,
Dibrugarh