

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

Present:- **Smti. Sanskrita Khanikar, A.J.S.**

Judicial Magistrate First Class, Dibrugarh

Date of Judgment:-22-02-2022

G.R.Case No.1697/2015

(F.I.R. No.206/2015 dated 25/06/2015

Moran P.S.Case No.206/2015 under sections
447/294/323/506 IPC)

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|----------------|--|
| Complainant: | State of Assam |
| Represented By | Learned Smti. Lakshmi Mohan |
| Accused | Sri Sanjit Gupta S/O - Lt. Ashok Gupta R/O - Rashipathar Nepali Gaon P.S. - Moran Dist - Dibrugarh, Assam |
| Represented By | Learned Sri Giriraj Rai |

| | |
|-------------------------------------|------------|
| Date of Offence | 18-06-2015 |
| Date of FIR | 25-06-2015 |
| Date of Charge-sheet | 30-06-2015 |
| Date of Particulars of the Offences | 27-05-2016 |

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|-------------------------------------|-------------------------------------|
| Explanation | |
| Date of Commencement of evidence | 04-12-2017, 20-08-2018 & 29-01-2022 |
| Date of recording Statement Defence | 01-02-2022 |
| Date of Argument | 22-02-2022 |
| Date on which Judgment is reserved | 22-02-2022 |
| Date of Judgment | 22-02-2022 |
| Date of Sentencing Order,if any | Nil |

Accused Details:

| Rank of the Accused | Name of Accused | Date of Arrest | Date of Release on Bail | Offences Explained with sections | Whether Acquitted or Convicted | Sentence Imposed | Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C. |
|---------------------|-------------------------|----------------|-------------------------|----------------------------------|--------------------------------|------------------|--|
| Accused No.1 | Sri Sanjit Gupta | Nil | 27-05-2016 | 447/294/ 323/506 IPC | Acquitted | Nil | Nil |

J U D G M E N T

1. The prosecution case as stated in the F.I.R. dated 25-06-2015 is that at about 10 AM on 18-06-2015, when the informant, namely, Smti. Ragini Gupta, along with two other women were plucking green

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tea leaves from her tea garden, the accused, namely, Sri Sanjit Gupta, being the elder brother of the informant's deceased husband entered into her tea garden and started to verbally abuse her. He then, allegedly, caught hold of the informant's hand and took her out of the tea garden. Then he threw a stone at her due to which she sustained injury on her left eye. He also shouted and threatened to kill her. As such, the informant was compelled to lodge the said F.I.R. against the above named accused. It has also been stated therein that the said F.I.R. could not be filed in time due to the informant's ill-health.

2. A case was registered at Moran P.S. subsequent to the lodging of this F.I.R. which was filed against the accused Sri Sanjit Gupta. Upon completion of investigation, the police submitted charge-sheet against the accused, namely, Sri Sanjit for commission of offences u/sec 447/294/323/506 of the Indian Penal Code (hereinafter referred to as I.P.C.).
3. The accused person stood for trial. Copies of the relevant documents were furnished to him as required by Section 207 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.). Upon finding prima facie case for commission of offences

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u/sec 447/294/323/506 of the IPC, the particulars of the offences therein under were explained to the accused to which he pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution side has examined as many as 03 (three) witnesses being the informant/victim, namely, Smti. Ragini Gupta as PW-1, Smti. Sauni Murari as PW-2 and Sri Pratap Borgohain as PW-3.

The prosecution also took aid of 03 (three) documents being the ejahar which has been exhibited as Exhibit 1, the charge-sheet as Exhibit 2 and the sketch-map of the place of occurrence as Exhibit 3.

5. After recording the prosecution evidence, the statement of the accused person was recorded u/sec 313 of Cr.P.C. The defence plea is that of total denial and the accused person claimed innocence. The defence adduced no evidence.
6. I have heard the arguments from both sides and meticulously perused the entire evidence on record.
7. **THE POINTS FOR DETERMINATION:**
 - (i) Whether the accused person, on 18-06-2015 at Rashipathar, Nepali Gaon, Moran, Dibrugarh, committed criminal trespass by

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entering upon the tea garden of the informant which was in her possession with intent to annoy her and thereby committed an offence punishable u/sec 447 of the IPC?

- (ii) Whether the accused person on the same date and place, verbally abused the informant by using obscene/foul language at a public place and thereby committed an offence punishable u/sec 294 of the IPC?
- (iii) Whether the accused person on the same date and place, voluntarily caused hurt to the informant and thereby committed an offence punishable u/sec 323 of the IPC?
- (iv) Whether the accused person on the same date and place, subjected the informant to criminal intimidation by threatening her to cause injury on her person and thereby committed an offence punishable u/sec 506 of the IPC?

DISCUSSION, DECISION AND REASONS THEREON:

8. PW-1, being the informant/victim, deposed in her evidence that the accused is her brother-in-law. According to her, there is a tea garden at Rashipathar which was the subject of a Court case

and as per the Court's verdict in the said case, the said tea garden was divided into two parts - one part for the informant/PW-1 and the other part for the accused. On 18-06-2015, she along with two other women, were plucking green tea leaves from her tea garden when the accused suddenly entered and started to verbally abuse and threaten her. He then caught them by their hands and took them out of the tea garden. He even threw a stone at her due to which she sustained injury on her left eye. After the incident she came home and lodged an ejahar at Moran P.S. on the next day. She proved the Exhibit 1 as the ejahar lodged by her by identifying Exhibit 1(1) as her signature thereon. Her statement was recorded by the police at the police station itself.

During her cross-examination, she stated that a civil suit was filed regarding the tea garden in 2013. The accused and her deceased husband were parties to the said civil suit. She had given the relevant documents of the same to the police. At the time of her marriage, the two brothers, her mother-in-law, the two children of the accused person were staying in the same house. Smti. Nirmala Devi is her sister-in-law. She denied the defence suggestion that they were all staying peacefully after her marriage. She denied the defence suggestion that the accused had filed a case against her and her husband. She

denied the defence suggestion that her husband had physically assaulted her mother-in-law and injured her hand. She denied the defence suggestion that due to the said assault, her mother-in-law had filed a case against her and her husband. She denied the defence suggestion that later on her mother-in-law had settled the matter and forgiven her husband. She denied the defence suggestion that she and her husband had filed several false cases against the accused. She stated that two cases filed by her and her husband against the accused were pending in the Courts at Dibrugarh being G.R. Case No. 2813/13 u/sec 448/323 IPC and G.R. Case No. 2141/2015 u/sec 447/325 IPC. She had also filed a case against her mother-in-law, sister-in-law and the accused under the Protection of Women from Domestic Violence Act which was dismissed by the Court. She denied the defence suggestions that the accused did not catch her by the hand, that he did not throw any stones at her and that she did not sustain any injury on her person. She denied the defence suggestion that she did not lodge the ejahar on the next day after the incident. She denied the defence that she made false allegations against the accused in the ejahar. She denied the defence suggestion that being unable to bear her torture, her husband killed himself in front of her. She denied the defence

suggestion that she lodged a false case against the accused. She stated that the ejahar was written for her at the police station and that she does not know the name of the person who actually wrote it for her.

9. PW-2, deposed in her evidence that both the informant and the accused are known to her. The incident occurred sometime in 2015. On the date of the occurrence, her agent had sent her to the informant's tea garden at Rashipathar to pluck some tea leaves. She was plucking the tea leaves with the informant and another woman when at about 10 AM, the accused entered into the tea garden and told them not to pluck the tea leaves. She continued to pluck the tea leaves with the other women. Then, the accused and the informant began to fight. She does not know what the fight was about.

During her cross-examination, she stated that she does not remember the exact date of the incident. She does not know if there is any on-going land dispute between the informant and the accused. She denied the defence suggestion that no such incident as deposed by her had taken place. She also denied the defence suggestion that the accused had not obstructed them during their work on the day of the occurrence.

10. PW-3 being the I.O. deposed in his evidence that on 25-06-2015, he was working as second officer at Moran P.S. and on the same day, the informant Smti. Ragini Gupta, W/O Late Sunil Gupta lodged a written ejahar at Moran P.S. The same was then registered as Moran P.S. Case No. 206/2015 u/sec 447/294/323/506 IPC by the O/C, Moran P.S. who also entrusted PW-3 with the investigation of the case on the same day. At about 2:00 PM of the same day, he proceeded to the place of occurrence with his staff. There he recorded the statements of the witnesses, namely, Smti. Chawani Murari, Smti. Rina Majhi and the informant Smti. Ragini Gupta. The informant was then sent for medical examination and later he collected her medical report from the Moran State Dispensary. He also prepared the sketch-map of the place of occurrence. He proved Exhibit 3 as the sketch-map by identifying Exhibit 3(1) as his signature therein. On 27-06-2015, the accused himself appeared at the P.S. ta about 08:30 AM. As the offences alleged to have been committed by the accused were bailable in nature, the accused was allowed to go on bail. On the same day, he also recorded the statement of the accused at the P.S. during which he denied the allegations levelled against him. He, then, filed charge-sheet against the accused u/sec 447/294/323/506 IPC on 30-06-2015.

He proved Exhibit 2 as the charge-sheet by identifying Exhibit 2(1) as his signature therein.

During his cross-examination, he stated that he himself recorded the statements of the witnesses during the investigation. The witnesses were already at the place of occurrence. During investigation, he went to the residence of the accused but he did not find him there. He did not notice any external injuries upon the informant's person. He denied the defence suggestions that he did not investigate into the matter properly and that he did not record the statements of the witnesses properly. He denied the defence suggestion that the instant case has been falsely lodged against the accused.

11. I have heard the arguments of the learned Asst. Public Prosecutor and the learned defence counsel. Perusal of the case record reveals that the prosecution failed to secure the attendance of Smti. Rina Majhi as she was found not traceable as per the summons report. Vide order dated 01-10-2018, it transpires that one Dr. Kabita Chelleng appeared upon in response to the summons of the Court but after going through the medical report of the informant/victim, she submitted that though her name is listed in the charge-sheet, she did not examine the informant/victim of the instant case.

The PW-1/informant did not state how and in what manner the accused had verbally abused her threatened her. She deposed that she had lodged the ejahar on the day after the incident but perusal of the Exhibit 1 reveals that the ejahar was lodged on 25-06-2015 whereas the incident had taken place on 18-06-2015. PW-2 is an eye-witness who testified that the accused had entered into the tea garden and told them to stop plucking tea leaves and that he had fought with the informant. But she could not state as to what the fight/argument was about. She also did not mention anything about the usage of obscene language by the accused during the incident or about him threatening the informant/PW-1 or throwing stones at the informant/PW-1 and injuring her in the process. Although the M.O. of the instant case could not be examined by the prosecution, a bare perusal of the medical report of the informant/victim/PW-1 reveals that there was no sign of any external injury upon her person. Under such circumstances, the testimony of the informant/PW-1 alone does not confirm the involvement of the accused in the alleged incident.

12. It is one of the cardinal principles of criminal jurisprudence that the prosecution must prove the guilt of the accused beyond all reasonable doubt. As is clear from the above discussion, the evidence on

record is quite inadequate to establish the case of the prosecution and there is ample scope of reasonable doubt as to the factum of the occurrence alleged. In the absence of any cogent evidence, I am not inclined to hold the accused Sri Sanjit Gupta guilty u/sec 447/294/323/506 IPC.

13. Situated thus, I am constrained to hold that the prosecution has failed to establish the guilt of the accused, namely, Sri Sanjit Gupta u/sec 447/294/323/506 IPC beyond all reasonable doubt. As such, the points of determination are answered in the negative in favour of the accused persons.

ORDER

14. In view of the decision made above, the accused person, namely, Sri Sanjit Gupta is acquitted of the offences u/sec 447/294/323/506 IPC and set at liberty forthwith.
15. His bail bond shall remain in force for six months from today in compliance with section 437-A, Cr.P.C.
16. The case is disposed of on contest.
17. Given under my hand and the seal of this Court on this day of February, 2022 at Dibrugarh.

Typed by: Self

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh

APPENDIX

**LIST OF PROSECUTION /DEFENCE /COURT
WITNESSES**

A. Prosecution:

| RANK | NAME | NATURE OF EVIDENCE EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|----------------------|---|
| PW1 | Smti. Ragini Gupta | Informant/Eye Witness |
| PW2 | Smti. Sauni Murari | Eye Witness |
| PW3 | Sri Pratap Borgohain | Investigating Officer |

B. Defence Witnesses,if any:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|-------------|--|
| DW1 | Nil | Nil |
| DW2 | Nil | Nil |

C. Court Witnesses,if any:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|-------------|--|
| CW1 | Nil | Nil |
| CW2 | Nil | Nil |

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|---|
| 1 | Exhibit -1 | The Ejahar |
| 2 | Exhibit -2 | The Charge-Sheet |
| 3 | Exhibit -3 | The sketch-map of the place of occurrence |

B. Defence:

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
| 1 | Exhibit D-1/DW1 | Nil |
| 2 | Exhibit D-2/DW2 | Nil |

C. Court Exhibits:

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
| 1 | Exhibit C-1/CW1 | Nil |
| 2 | Exhibit C-2/CW2 | Nil |

D. Material Objects:

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
| 1 | MO1 | Nil |
| 2 | MO2 | Nil |

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh