

**DISTRICT: NAGOAN
IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, HOJAI**

**GR CASE NO: 513/15
U/S 447/352/294/506/34 IPC**

**PROSECUTOR: STATE OF ASSAM
VERSUS
ACCUSED: ADHIR RAI & ORS.**

PRESENT: BISWADEEP BARUAH, JMFC, HOJAI

ASSISTANT PUBLIC PROSECUTOR: SRI. SUNIL DAS

ADVOCATE FOR THE ACCUSED: SMT. ASHIMA MAHANTA

EVIDENCE RECORDED ON: 03/02/17

ARGUMENT HEARD ON: 03/02/2017

JUDGMENT DELIVERED ON: 17/02/2017

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of Lanka P.S. by the informant Smt. Maya Rani Rai stating that she was a permanent resident of Dablong but was presently staying at Delhi with her family. On 20/01/15, the informant and her children came back home at about 3 p.m. The accused persons, namely Adhir Rai, Fatik Rai, Jayrani Rai, Alaka Rai, Ganga bala Rai, Shipra Rai and Sanjay Rai who were all armed with dao and sticks prevented her from entering her house. The accused assaulted her with a dao and caused her grievous injury and they also abused her in a filthy language and threatened to kill her. The accused then entered the house of the informant and took away Rs. 30,000/ from her house.
2. The police upon receipt of the ejahar registered Lanka Police Station case no. 114/2015 u/s 147/325/354/380/294/506 of IPC and started investigation in the case. After

completion of the investigation the police submitted chargesheet against the accused, Adhir Rai, Fatik Rai, Jayrani Rai, Ganga Bala Rai under sec 447/352/294/506/34 of IPC.

3. The accused were called upon to enter trial and copies of all the relevant documents were furnished to them. Upon hearing and on perusal of record, and based on the materials on record, particulars of offence under sec 447/352/294/506/34 of IPC was read over and explained to the accused to which they pleaded not guilty and claimed trial.
4. The prosecution in support of its case examined one witness who is the informant and the victim of the instant case. The defense did not adduce any evidence.
5. The statement of defense of the accused u/s 313 Cr.P.C. was discarded with since the accused was not incriminated by the Prosecution Witness.
6. I have heard both the parties. I have heard the learned counsel for the accused who submitted that there is no material against the accused; as such the accused needs to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following point for determination-
 - (1) Whether the accused had on 20/01/15 at about 3 p.m., criminally trespassed into the campus of the house of the informant Maya Rani Rai in furtherance of their common intention and thereby committed offence punishable under sec 447/34 of IPC?
 - (2) Whether the accused had on 20/01/15 at about 3 p.m, used criminal force upon the informant Maya Rani Rai without any provocation in furtherance of their common intention and thereby committed offence punishable under sec 352/34 of IPC?
 - (3) Whether the accused had on 20/01/15 at about 3 p.m., abused the informant Maya Rani Das in an obscene language in furtherance of their common intention and thereby committed offence punishable under sec 294/34 of IPC?
 - (4) Whether the accused had on 20/01/15 at about 3 p.m, criminally intimidated the informant Mya Rani Das in furtherance of their common intention and thereby committed offence punishable under sec 506/34 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.

DISCUSSION, DECISION AND REASONS FOR THE DECISION:

POINT FOR DETERMINATION NOS.1, 2, 3 and 4:

9. I have taken up all the points for determination together for the sake of convenience to arrive at a definite finding.
10. The prosecution in support of its case examined only one witness who is the informant as well as the victim of the instant case. The defense did not adduce any evidence.
11. PW1, Maya Rani Das is the informant of the instant case. She stated that on the date of occurrence, there was an argument between her family and the accused who are her relatives over a petty domestic issue and she had filed the case in anger. Exhibit 1 being the ejahar and Exhibit 1(1) being his signature was proved by PW1.
12. **DECISION:** In analyzing the depositions of the Prosecution Evidence, it is seen that the Prosecution Witnesses, PW1 who is the informant as well as the victim has not implicated the accused in any manner. PW1 has merely stated that there was an argument between her and the accused who are her relatives over some trivial family. Moreover it appears that the matter has been amicably settled and the informant side does not want to implicate the accused. PW1 stated that she did not object to the acquittal of the accused. Hence in light of the evidence of PW1 and the insufficient incriminating materials presented against the accused, the points of determination are answered in negative, in favour of the accused.

ORDER

1. In view of the discussions made above and the decision reached therein it is held that the prosecution has failed to prove the charge against the accused; the Prosecution witness has not supported the case and incriminated the accused in any manner; as such the accused Adhir Rai, Fatik Rai, Jayrani Rai and Ganga Bala Rai are held not guilty of the charge under section 447/352/294/506/34 of IPC and acquitted.
2. The case is disposed of accordingly.
3. The bail bonds of the accused stands extended for a period of six months.

Given under my hand and the seal of this court on this the 17th day of February, 2017 at
Hojai.

BiswadeepBaruah,
Judicial Magistrate First Class, Hojai.

WITNESS FOR THE PROSECUTION

PW1 Maya Rani Das

WITNESS FOR THE DEFENSE: NONE

EXHIBITS:

Exhibit 1 Ejahar

Exhibit 1(1) Signature of PW1