

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

**GR CASE NO: 1327/13
U/S 448/294/427/34 IPC**

**PROSECUTOR: STATE OF ASSAM
VERSUS
ACCUSED: ABDUL KHAIRAT & ORS.**

PRESENT: BISWADEEP BARUAH, JMFC, HOJAI

ASSISTANT PUBLIC PROSECUTOR: SRI. B. BHATTACHARJEE

ADVOCATE FOR THE ACCUSED: SRI. A. B. M. SHAHIN

EVIDENCE RECORDED ON: 03/10/16

ARGUMENT HEARD ON: 05/04/2017

JUDGMENT DELIVERED ON: 17/04/2017

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Doboka Police Station by the informant Smt. Mira Rani Dey who was the Chairperson of the Doboka Town Committee at that point on 16/08/13 to the effect that on the instant date at about 1.30 p.m. , the accused persons namely Abdul Khairat, Abdul Karim, Muhib Uddin Choudhury, Abdul Salam, Badrul Islam Baig and Hilal Uddin Choudhury barged inside the Office of the Doboka Town Committee and damaged the furniture and used slang language against the staff. The accused persons attacked the staff with weapons and the latter had to flee from the spot fearing for their lives. The accused persons took some documents from the Office and shut the door locked.
2. The police upon receipt of the ejahar registered Doboka Police Station case no. 167/2013 u/s 143/448/506/294/427 of IPC and started investigation in the case. After completion of the investigation the police submitted chargesheet against the accused,

Abdul Khairat, Abdul Karim, Muhib Uddin Choudhury, Abdul Salam and Badrul Islam Baig under sec 448/427/294/34 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, particulars of offence under sec 448/427/294/34 of IPC was explained to the accused to which they pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined one witness who is the informant; whereas 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 persons 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 persons had on 16/08/13 at about 1. 30 p.m., criminally trespassed inside the premises of Doboka Town Committee Office in pursuance of their common intention and thereby committed offence punishable under sec 448/34 of IPC?
 - (2) Whether the accused persons had on 16/08/13 at about 1. 30 p.m., damaged the furniture in the premises of Doboka Town Committee Office in pursuance of their common intention and thereby committed offence punishable under sec 427/34 of IPC?
 - (3) Whether the accused persons had on 16/08/13 at about 1. 30 p.m., used filthy and vulgar language against the staff of Doboka Town Committee in pursuance of their common intention and thereby committed offence punishable under sec 294/34 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 and 3:

9. The prosecution examined one witness who is the informant of the instant case. The defense did not adduce any witnesses.
10. PW1, Mira Rani Dey is the informant of the instant case and stated that she was the Chairperson of the Doboka Town Committee. She stated that the incident took place around in the year 2013. She stated that on the date of occurrence there was a misunderstanding between her members of her staff and the accused which resulted in an argument. Exhibit 1 being the ejahar and Exhibit 1(1) being her signature was proved by PW1.
11. In his cross examination, PW1 stated that the matter has been amicably resolved and she did not have any objection to the acquittal of the accused.
12. DECISION: In analyzing the depositions of the Prosecution Evidence, it is seen PW1 who is the informant has not implicated the accused in any manner. She has merely stated that there was an argument between her office staff and the accused after a misunderstanding. Moreover it appears that the matter has been amicably settled and the informant and does not want to implicate the accused. PW1 further stated that she does not object to the acquittal of the accused. Hence in light of the evidence of the informant, all the points of determination are answered in negative, in favour of the accused persons.

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 Abdul Khairat, Abdul Karim, Muhib Uddin Choudhury, Abdul Salam and Badrul Islam Baig are held not guilty of the charge under section 448/427/294/34 of IPC and acquitted.
2. The case is disposed of on contest without cost.
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 April, 2017 at
Hojai.

BiswadeepBaruah,
Judicial Magistrate First Class, Hojai.

APPENDIX:

WITNESS FOR THE PROSECUTION:

PW1 Mira Rani Dey

WITNESS FOR THE DEFENSE: NONE

EXHIBITS:

EXHIBIT 1 EJA HAR

EXHIBIT 1(1) SIGNATURE OF PW1