

**COURT OF MUNSIFF NO-4 cum JUDICIAL MAGISTRATE FIRST CLASS  
KAMRUP (M)**

**G.R CASE 8641 of 2010**

**U/S 294/341/506 (I) of IPC**

**STATE**

**V**

**Md. TULTUL ALI.....ACCUSED**

**PRESENT: - SUNDEEP KASHYAP DAS, A.J.S**

**JUDICIAL MAGISTRATE FIRST CLASS, KAMRUP (M)**

**FOR THE PROSECUTION:**

**Smti JITUMONI TAMULI**

**.....A.P.P. FOR THE STATE**

**FOR THE DEFENCE**

**ANJUMONI SAIKIA**

**.....ADVOCATE FOR THE ACCUSED**

**EVIDENCE RECORDED ON: -21.04.2015, 13.02.2017**

**ARGUMENTS HEARD ON: - 23.02.2017**

**JUDGMENT DELIVERED ON: -09.03.2017**

## **JUDGMENT**

### **BRIEF FACTS OF PROSECUTION'S CASE**

1. On 31.10.2010, the informant **NISHA BEGUM** had lodged an F.I.R stating inter alia that on the said date while she was on her way to home at *Bongara* from *Garigaon* along with her friends namely *Ayesha Begum* and *Sanwara Begum*, the accused, Md. **TULTUL ALI** alongwith 7-8 persons abused her and her friends with filthy language. When they asked them about their uncivilised behaviour, they threatened to slap them. The matter was informed to the parents of the accused person. But, the accused along with his family members assaulted them. The informant and her friends manage to escape from the place of occurrence. Hence, the informant filed this instant case for taking necessary action.

### **INVESTIGATION**

2. On receipt of *ejahar*, the police registered a case P.S 288/10. After completion of investigation, the police submitted a charge-sheet for the offence under section 294/341/506 of Indian Penal Code (hereinafter referred to as 'IPC') against the accused person namely **TULTUL ALI**

### **APPEARANCE OF THE ACCUSED PERSON**

3. The accused was called upon to enter trial and upon his appearance, copies of relevant documents were furnished to him u/s 207 CrPC.

### **SUBSTANCE OF ACCUSATION AGAINST THE ACCUSED PERSONS**

4. Considering the relevant documents and hearing both parties, substance of accusation u/s 294/341/506 (I) of IPC have been stated to the accused persons to which he pleaded not guilty and claimed to be tried.

## **WITNESSES EXAMINED and DOCUMENTS EXHIBITED**

5. The prosecution examined (2) witnesses and exhibited no documents.

## **EXAMINATION OF THE ACCUSED PERSON**

6. The examination of the accused persons u/s 313 of Cr.P.C has been dispensed with as there were no incriminating materials against them

## **POINTS FOR DETERMINATION**

a. *Whether, on 31<sup>st</sup> day of October, 2010, the accused person namely Md. TULTUL ALI, wrongfully restrained the informant namely NISHA BEGUM and her friends namely AYESHA BEGUM and SANWARA BEGUM while they were on their way to BONGARA from GARIGAON and thereby committed an offence punishable u/s 341 of IPC?*

b. *Whether on the said date and time, the said accused person, uttered any word which was obscene and it caused annoyance to the informant and her friends and committed an offence punishable u/s 294 of IPC?*

c. *Whether on the said date and time, the said accused person, threatened the informant as well as her friends to slap them and thereby committed an offence punishable u/s 506 (I) of IPC?*

## **DISCUSSION, DECISIONS AND REASONS THEREOF**

## **EVIDENCE FOR PROSECUTION**

### **EVIDENCE OF P.W.1**

7. P.W.1, Md. **SAHIDUL ISLAM** has stated that he knows both the informant as well as the accused person. The incident took place on

31.10.2010. He has deposed that the village boys organised certain games on the occasion of *Diwali* in front of the house of the accused. He was sitting over there. At about 12:00 noon-1 p.m., he heard some noise. The informant was present at the spot. The accused asked the boys nearby not to make any noise.

#### **EVIDENCE OF P.W.2**

8. P.W.2, Sri ***EZAZUL HAQUE*** has stated that he does not know the informant. However, he knows the accused person. On being asked, he replied that he does not know anything about the incident. Police did not interrogate him.

#### **CROSS-EXAMINATION BY DEFENCE**

9. Defence declined to cross-examine P.W.1 and cross-examination of P.W.2 was dispensed with as per proviso to Section 309 (2) of Cr.P.C.
10. The standard of proof in criminal law is to prove the guilt of the accused beyond reasonable doubt. Basic allegations against the accused reveals from the story of prosecution as stated above. Question arises whether prosecution has been able to discharge the burden? The answer is NO. The prosecution manage to examine two witnesses. On perusal of evidence of P.W.1, it appears that he heard some noise on the day of incident and that the accused came as a saviour and asked the village boys nearby not to make any noise. Evidence of P.W.2 reveals that he does not have any knowledge on the incident alleged. Prosecution failed to bring to the dock the most vital witness, i.e. the informant cum victim, i.e. *NISHA BEGUM* and her friends who have alleged to have assaulted, restrained and threatened by accused. They could have been the best possible evidence to narrate the entire chain of events. Moreover, there were no eye-witness or independent witness to support the allegations levelled by prosecution.

11. Situated thus, it is found that the prosecution has failed to implicate the accused person of any offence to warrant conviction against him.

**DECISION: - *The points are decided in negative and goes in favour of the accused person***

**ORDER**

In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused person Md. **TULTUL ALI** has committed the offence under section **294/341/506 (I)** of IPC as alleged and as such the accused persons are acquitted of the charges under section **294/341/506 (I)** of IPC on benefit of doubt and they be set at liberty forthwith.

The bail bond of the accused persons shall remain in force for another six months from today.

This judgment is given under my hand and seal of this court on this 09<sup>th</sup> day of MARCH, 2017

The case is disposed of on contest.

SUNDEEP KASHYAP DAS

JUDICIAL MAGISTRATE FIRST CLASS

KAMRUP (M)

**APPENDIX**

**LIST OF PROSECUTION WITNESS**

**PW1-Md. SAHIDUL ISLAM**

**PW2-Md. EZAZUL HAQUE**

**LIST OF DEFENCE WITNESS**

**DW- NONE**

**LIST OF PROSECUTION EXHIBITS/DOCUMENTS**

**NONE**

**LIST OF DEFENCE EXHIBITS/DOCUMENTS**

**NONE**

SUNDEEP KASHYAP DAS

JUDICIAL MAGISTRATE FIRST CLASS

KAMRUP (M)