

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

**G.R CASE 12827 of 2012**

**U/S 294/341/352/506 (I)/34 of IPC**

**STATE**

**V**

**RASHMI SAIKIA & ORS.....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**

**SAILEN DAS, KASHYAPEE DAS, D. SHARMA, K BAYAN, N. BHARADWAJ**

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

**EVIDENCE RECORDED ON: -17.03.2017**

**ARGUMENT HEARD ON: -17.03.2017**

**JUDGMENT DELIVERED ON: -17.03.2017**

## **JUDGMENT**

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

1. The informant, **SEWLI DHAR** lodged an F.I.R stating inter alia that on 20.12.2012 at about 03:20 p.m., while she was coming from Maria's Public School after her duty to her rented house, the accused persons namely **RASHMI SAIKIA and DIBAKAR SAIKIA** came to her and abused her with filthy language. In addition to this, accused **RASHMI SAIKIA** pushed her and **DIBAKAR SAIKIA** slapped her on her face. Subsequently, the nearby people of the locality came to rescue her. Hence, the informant filed this case for taking necessary action.

### **INVESTIGATION**

2. On receipt of *ejahar*, **BHANGAGARH P.S** police registered a case as **BHANGAGARH P.S 315/12**. After completion of investigation, the police submitted a charge-sheet for the offence under section 294/341/352/506 /34 of Indian Penal Code (hereinafter referred to as 'IPC') against the accused person namely Smti **RASHMI SAIKIA** and **DIBAKAR SAIKIA**

### **APPEARANCE OF THE ACCUSED PERSONS**

3. The accused persons were called upon and upon his appearance; copies of relevant documents u/s 173 Cr.P.C were furnished to them in compliance with section 207 CrPC.

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

4. Considering the relevant documents and hearing both parties, substance of accusation u/s 294/341/352/506 (I)/34 of Indian Penal Code have been stated to the accused person to which he pleaded not guilty and claimed to be tried.

#### **WITNESSES EXAMINED AND DOCUMENTS EXHIBITED**

5. The prosecution examined 2 (two) witness and exhibited 1 (one) no of documents.

#### **EXAMINATION OF ACCUSED u/s 313 Cr.P.C**

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

#### **ARGUMENT**

7. I have heard the arguments submitted by Learned Assistant Public Prosecutor representing the State and Learned Defence Counsel representing the accused **RASHMI SAIKIA** and **DIBAKAR SAIKIA**

#### **POINTS FOR DETERMINATION**

**a. *Whether, on the 20<sup>th</sup> day of December, 2012, the accused persons, in furtherance of their common intention, voluntarily restrained the informant cum victim namely Smti SEWLI DHAR and thereby committed an offence punishable u/s 341/34 of Indian Penal Code?***

**b. *Whether on the said date and about said time, the accused persons, in furtherance of the common intention, assaulted the said victim cum informant and thereby committed an offence u/s 352/34 IPC?***

**c. *Whether on the said date and about said time, the accused persons, in furtherance of their common intention does an obscene act which caused annoyance to the informant and thereby committed an offence punishable u/s 294/34 IPC?***

**d. Whether on the said date and about same time, the accused persons, in furtherance of their common intention, threatened the informant with injury to her person with intent to use alarm them and thereby committed an offence punishable u/s 506 (I)/34 IPC?**

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

### **EVIDENCE OF P.W.1 [INDEPENDENT WITNESS]**

8. P.W.1, Smti **PURNIMA ADITYA** has stated that she knows the informant as well as the accused persons. The incident took place about 2-3 years ago. On the date of incident, she observed that the accused persons attempted to assault the victim, Smti **SEWLI DHAR**. When she came, the accused persons told her that the victim infact assaulted them.

### **EVIDENCE OF P.W.2 [THE INFORMANT cum VICTIM]**

9. P.W.2, Smti **SEWLI DHAR** has stated that she is the informant of this case. She lodged this case against the accused persons namely Smti **RASHMI SAIKIA** and **DIBAKAR SAIKIA**. At present, she has mutually settled the matter with the accused persons and does want to pursue the instant case against them.

## **CROSS-EXAMINATION BY DEFENCE**

### **CROSS-EXAMINATION OF P.W.1 and P.W.2**

10. Defence declined to cross-examine the said witnesses.

## **JUDICIAL DETERMINATION**

11. 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 facts stated by prosecution. Question arises whether prosecution has been able to discharge the burden? The answer is NO. The prosecution manage to examine the informant. But, after perusal of her evidence it has become apparent that there must have been some minor altercation between the informant and the accused persons. However, the same appears to have been resolved. From the evidence that has been brought on record, it is seen that no offence has been made out against the accused person under any section of law. Both parties are not at loggerheads anymore and further bear no animosity towards one another.

## **DECISION**

***The above points are decided in negative and goes in favour of the accused persons***

## **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 **RASHMI SAIKIA** and **DIBAKAR SAIKIA** have committed the offence under section **294/341/352/506 (I)/34** of IPC as alleged and as such the accused person is acquitted of the charge under section **294/341/352/506 (I)/34** of IPC on benefit of doubt and he 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 17<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-Smti *PURNIMA ADITA***

**PW2-Smti *SEWLI DHAR***

**DW- NONE**

**LIST OF PROSECUTION EXHIBITS/DOCUMENTS**

**EXT-1-F.I.R**

**LIST OF DEFENCE EXHIBITS/DOCUMENTS**

**NONE**

SUNDEEP KASHYAP DAS

JUDICIAL MAGISTRATE FIRST CLASS

KAMRUP (M)