

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

**G.R CASE 12828 of 2012**

**U/S 294/354/34 of IPC**

**STATE**

**V**

**SEWLI DHAR & 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**

**M.S BEGUM**

**.....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, **RASHMI SAIKIA** lodged an F.I.R stating inter alia that on 20.12.2012, the accused, Smti **SEWLI DHAR** dragged her daughter from the school bus by pulling her ear and abused her with filthy language. As such, it outraged her modesty. Her daughter informed the matter to her. She went to enquire the matter to the accused, Smti **SEWLI DHAR**. But, the said accused abused her with slang languages. In addition to this, the co-accused namely Sri **MANOJ ADITYA** assaulted her. As such, she had sustained injuries. 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 316/12. After completion of investigation, the police submitted a charge-sheet for the offence under section 294/354/34 of Indian Penal Code (hereinafter referred to as 'IPC') against the accused person namely Smti **SEWLI DHAR** and Sri **MANOJ ADITYA**

### **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 294/354/34 of Indian Penal Code have been stated to the accused person to which they pleaded not guilty and claimed to be tried.

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

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

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

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

### **ARGUMENT**

7. I have heard the arguments submitted by Learned Assistant Public Prosecutor representing the State and Learned Defence Counsel representing the accused persons

### **POINTS FOR DETERMINATION**

***a. Whether, on the 20<sup>th</sup> day of December, 2012, the accused persons, in furtherance of their common intention does an obscene act which caused annoyance to the informant and her daughter and thereby committed an offence punishable u/s 294/34 IPC?***

***b. Whether, on the said date and about said time, the accused persons, in furtherance of their common intention, assaulted the victim and the informant, a woman, and thereby intended to outrage her modesty and committed an offence punishable u/s 354/34 of IPC?***

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

### **EVIDENCE OF P.W.1 [THE INFORMANT]**

8. P.W.1, Smti **RASHMI SAIKIA** has stated that she is the informant of this case. She lodged this case against the accused persons namely Smti *SEWLI DHAR* and *MANOJ ADITYA*. 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**

9. Defence declined to cross-examine the said witness.

### **JUDICIAL DETERMINATION**

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 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 **SEWLI DHAR** and **MANOJ ADITYA** have committed the offence under section **294/354/34** of IPC as alleged and as such the accused person is acquitted of the charge under section **294/354/34** 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 *RASHMI SAIKIA***

**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)