

In the court of the Chief Judicial Magistrate ::::::::::: Dhubri

Present: Smt.T. Hussain

Chief Judicial Magistrate, Dhubri

GR No. 2241 of 2014

U/S 447/509/323/506/34 IPC

State

-Vs-

1) Monser Ali

2) Bokkar Ali

3) Abul Sk &

4) Mostafa Sk

.....Accused persons

Advocates appeared:

for the prosecution : Mr. S. Mollah, Addl. PP

for the defence : Mr. R. S Begum

Evidence recorded on : 07.02.17, 23.05.17 & 14.06.17

Argument heard : 14.06.2017

Judgment delivered on : 14.06.2017

J U D G M E N T

1. The facts giving rise to the prosecution case in brief are that on 04.06.2014 the informant Nazrobi Bibi lodged an ejarah alleging inter-alia that in that afternoon at about 1.00 P.M, out of previous grudge the accused persons trespassed into her homestead and started abusing her uttering obscene words and thereafter assaulted her causing injuries to her and when her daughter in law Habiza Khatun came forward to her rescue, the accused persons also beat her up causing injuries to her and her three year old baby who was in her lap. The accused persons further threatened them with dire consequences.

2. Accordingly, Gauripur PS case No.426/2014 was registered, investigated into and finally charge-sheet was submitted against the accused persons u/s 147/149/341/447/294/323/506 IPC.

3. On their making appearance for facing the trial, copies were furnished to the accused persons and vide order dated 12.04.2016 charges u/s 447/509/323/506/34 IPC were framed against the accused persons. On being explained and read over the accused persons pleaded not guilty to the charges and claimed to be tried.

4. During the course of the trial the prosecution examined 3(three) witnesses. Thereafter one of the victims was examined as court witness. Thereafter the accused were examined u/s 313 of Cr.P.C and their defence statements were recorded. The accused declined to adduce evidence.

5. Points for determination:

(i) Whether the accused persons on 04.06.14 at around 6.15 P.M in Dalaner Alga Part- II in furtherance of their common intention trespassed into the land of the informant Nazrobi Bibi with intent to commit the following offences and thereby committed the offence punishable u/s 447/34 of IPC?

(ii) Whether the accused persons on the same date, time and place in furtherance of their common intention uttered obscene words and thereby insulted the modesty of the informant Nazrobi Bibi and thereby committed the offence punishable u/s 509/34 IPC.

(iii) Whether the accused persons on the same date, time and place in furtherance of their common intention voluntarily caused hurt to the informant Nazrobi Bibi, Saiful Islam and Hafiza Khatun and thereby committed an offence punishable u/s 323/34 IPC.

(iv) Whether the accused persons on the same date, time and place in furtherance of their common intention gave threat to the informant Nazrobi Bibi and her relative and thereby committed an offence punishable u/s 506/34 IPC.

6. Decision and reasons thereof:

I have heard the arguments advanced by the Id counsel for both sides and perused the materials available in the CR. Let us now scrutinize the evidence on record for arriving at just decision.

PW-1 Nazar Bibi is the informant of this case. She has said in her evidence that the accused persons are residents of her locality. Asurudin is nephew of accused Monser. Abu Salem is her nephew. In the day of occurrence in the school there was a quarrel between the daughters of Asuruddin and Abu Salam. Following that in the evening the accused persons namely Monser, Bokkar, Abul and Mostafa came to her homestead and started abusing them. As she came out, the accused persons beat her and when her son Saiful and daughter in law Hafiza came forward to her rescue they were also beaten up by the accused persons.

In her cross examination PW-1 has said that in respect of the same occurrence the accused persons also lodged a case against them.

PW-2 Zahara Khatun is the sister –in- law of the informant. In her depositions Pw2 has fully supported and corroborated the evidence of Pw1 by saying that following a quarrel between the daughters of Abu Salam and Asuruddin, in the evening the accused persons namely Monser, Bokkar, Abul and Mostafa came to her homestead and started beating the informant. The accused persons also beat the informant's son Saiful and daughter- in- law Hafiza and their three month old daughter. She came and separated the accused. The child sustained head injury.

Like Pw1 ,Pw2 has also conceded in her cross examination that in respect of the same occurrence the accused persons also lodged a case against the informant.

PW-3 Saiful Islam is the son of the informant and CW1 Hafiza Bibi is the daughter- in- law of the informant who are also the victims in the case. Contradicting the testimony of Pw1 and Pw2 ,Pw3 and Cw1 have said in unison that they had some altercation with the accused persons and that in the resultant tussle their baby fell down and that the matter was later amicably .

Thus it is seen that Pw3 and Cw1 being victims ,have not supported the testimony of Pw1 and Cw1 implicating the accused persons. According to Pw3 and Cw1 there was mere altercations between them and the accused persons. In view of such withdrawal testimony of some of the victims(Pw3 and Cw1),the testimony of Pw1 and Pw2 implicating the accused persons can not be acted upon.

That being the position, I have come to the conclusion that the prosecution has not been able to bring home the charges levelled against the accused persons.

In the result the accused persons namely Monser Ali, Bokjar, Abul Sk and Mostafa Sk are acquitted of the offences u/s 447/509/323/506/34 IPC and set them at liberty forthwith.

Bail bonds shall remain in force for next six months.

Given under my hand and seal of the court on this 14th day of June, 2017.

Dictated and corrected by me

Chief Judicial Magistrate,
Dhubri

Appendix:

Witnesses examined by the prosecution

Pw-1..... Nazar Bibi

Pw-2..... Zahara Khatun

Pw-3..... Saiful Islam

CW-1..... Hafiza Bibi

Documents exhibited by the prosecution

Nil