

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (S), GOLAGHAT

PRC 193 of 2020

Section 354/448/34 of Indian Penal Code

STATE OF ASSAM

V

BITUMONI BORA & others.....ACCUSED

PRESENT: - SUNDEEP KASHYAP DAS, LL.M, A.J.S

SUB-DIVISIONAL JUDICIAL MAGISTRATE (S), GOLAGHAT

FOR THE PROSECUTION:

M. SAIKIA

.....ASSISTANT PUBLIC PROSECUTOR FOR THE STATE

FOR THE DEFENCE

J.B DUTTA

.....ADVOCATE FOR THE ACCUSED

EVIDENCE RECORDED ON: -01.04.2021, 03.04.2021

ARGUMENT HEARD ON: -03.04.2021

JUDGMENT DELIVERED ON: -03.04.2021

JUDGMENT

BRIEF FACTS OF PROSECUTION'S CASE

1. On 03.08.2017, the informant, Smti *Minakshi Bora* has lodged an F.I.R stating inter alia that on the said date at about 06:30 p.m., the accused persons without any reason committed house trespass with intent to intimidate her and her mother and threaten to kill them within 24 hours and also torn the clothes of her mother, an woman with intent to outrage her modesty. Hence, the informant filed this instant case for taking necessary action.

INVESTIGATION

2. On receipt of *ejahar*, the police registered a case *Dergaon P.S 487/2017*. After completion of investigation, the police submitted a charge-sheet for the offence under section 294/354/448/34 of Indian Penal Code (hereinafter referred to as 'IPC') against the accused person namely Sri *Bitumoni Bora* and *Ananta Bora @ Gaga Bora*.

APPEARANCE OF THE ACCUSED PERSONS

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

FRAMING OF CHARGE

4. Considering the relevant documents and hearing both parties, charge u/s 354/448/34 of IPC was framed and the same was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

WITNESSES EXAMINED AND DOCUMENTS EXHIBITED

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

STATEMENT DEFENCE OF THE ACCUSED u/s 313 Cr.P.C

6. The examination of the accused persons have been dispensed with as there are no incriminating materials against them.

POINTS FOR DETERMINATION

a. Whether, on 3rd day of August, 2017 at about 06:30 p.m., the accused persons, in furtherance of their common intention, committed house trespass with intent to intimidate her and her mother and thereby committed an offence punishable u/s 448/34 of IPC?

b. Whether, on the said date and time, the accused persons, in furtherance of their common intention, used criminal force upon the victim (name withheld) and torn her clothes with intent to outrage her modesty being a woman and thereby committed an offence punishable u/s 354/34 of IPC?

DISCUSSION, DECISIONS AND REASONS THEREOF

EVIDENCE OF P.W.1 and P.W.2 [THE INFORMANT and VICTIM]

7. P.W.1, Smti **MINAKSHI BORA** (informant and victim) and P.W.2, Smti 'Y' (victim) (name withheld) have deposed that they are informant and victim of this case. They have stated that they had lodged the case out of certain misunderstanding. At present, they do not want to continue the case.

CROSS-EXAMINATION

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

JUDICIAL DETERMINATION

9. 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 brief facts of prosecutions' case as stated above. Question arises whether prosecution has been able to discharge the burden?

10. Prosecution manage to examine the primary witnesses in this case, i.e. the informant and victim. They have stated that they have amicably settled the matter with the accused persons. From the evidence that has been brought on record, it is seen that no offence has been made out against the accused persons 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 persons **BITUMONI BORA and ANANTA BORA @ GAGA** have committed the offence under section **354/448/34** of IPC as alleged and as such they are acquitted of the charge under section **354/448/34** of IPC and they be set at liberty forthwith.

Their bail bonds shall remain in force for another six months from today.

This judgment is given under my hand and seal of this court on this 03rd day of April, 2021

The case is disposed of on contest.

SUNDEEP KASHYAP DAS

SUB-DIVISIONAL JUDICIAL MAGISTRATE (S)

GOLAGHAT

APPENDIX

LIST OF PROSECUTION WITNESS

P.W.1-Smti *MINAKSHI BORA*

P.W.2-Smti 'Y' (name withheld)

LIST OF DEFENCE WITNESS

DW- NONE

LIST OF PROSECUTION EXHIBITS/DOCUMENTS

Ext-1-*FIRST INFORMATION REPORT*

LIST OF DEFENCE EXHIBITS/DOCUMENTS

NONE

SUNDEEP KASHYAP DAS

SUB-DIVISIONAL JUDICIAL MAGISTRATE (S)

GOLAGHAT