

DISTRICT: GOALPARA

IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE,

GOALPARA

G.R. CASE NO. 2799/2015

U/S. 448/323/294/506/34 IPC

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: MD. KANDURA SK @ MOTLEB ALI, MD. HALIM SK @ ABDUL
HALIM, MD. AMINUR ISLAM @ BONDA SK AND MD. ABAD ALI.

PRESENT: SMTI. S. CHANDA, LL.M., AJS.
ADDL. CHIEF JUDICIAL MAGISTRATE, GOALPARA.

APPEARED FOR:

THE STATE: SMTI. SHRABANI GUHA, LEARNED ADDL. PUBLIC PROSECUTOR.

SRI DIPJYOTI DAS, LEARNED ASSTT. PUBLIC PROSECUTOR

ACCUSED: SRI DULAL SAHA, SRI ANUPAM NATH, SMTI. DIPTIMONI DAS, LEARNED
ADVOCATES.

DATE OF:

OFFENCE EXPLANATION : 06-11-2017.

EVIDENCE : 21-02-2019, 08-05-2019.

ARGUMENT : 08-05-2019.

JUDGMENT : 01-06-2019.

J U D G M E N T

1. Sri Moidul Islam of Village: Bujruk Manikpur, Baniapara initiated this instant case by filing a written *complaint* before the Learned CJM, Goalpara on 30-10-2015 with a prayer to forward it to the O/C, Krishnai P.S. The prayer was allowed. The case was registered as Krishnai P.S. FIR No.322/2015 under section 448/395/323/506/34 IPC against the accused Md. Kandura Sk, Md. Halim Sk, Md. Bonda Sk, Md. Abad Ali and others and investigated into.
2. The prosecution case in a nutshell is that, on 29-10-2015 at about 11/12-00 midnight the accused persons criminally trespassed into informant's house, beat up the informant and his wife, used obscene words to them and also threatened them. Hence, the case.

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3. After registering the case, the matter was investigated into. On completion of investigation police filed a charge-sheet against the accused persons Md. Kandura Sk @ Motleb Ali, Md. Halim Sk @ Abdul Halim, Md. Aminur Islam @ Bonda Sk and Md. Abad Ali under section 448/323/294/506/34 of IPC.
4. After securing appearance of the accused persons they were allowed to go on Court bail. Relevant documents of the case were furnished to them. Upon perusal of materials on record and after hearing both sides, my Learned Predecessor-in-office had explained the particulars of the offence to accused persons u/s. 448/323/294/506/34 of IPC against the accused to which they have pleaded not guilty and claimed to be tried.
5. The prosecution in support of its case examined two witnesses and declined to examine the other witnesses. Examination of the accused persons under section 313 CrPC is dispensed with as found not necessary. The defence side has not adduced any witness in support of their defence.
6. I have heard the argument advanced by the Learned Counsels for both sides.
7. Upon hearing and on perusal of the record I have framed the following point for determination:

(i) *Whether the accused persons in furtherance of common intention of all of them on 29-10-2015 at 11/12-00 midnight criminally trespassed into informant's house, voluntarily caused hurt to him and his wife, used obscene words to them to the annoyance of others and also threatened them ?*

DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:

8. I have gone carefully through the entire evidence and the materials placed before me. The informant Sri Mohidul Islam @ Moidul Islam and alleged victim Smti. Nureja Bibi have examined themselves as Pw-1 and Pw-2 and testified on oath that, this matter is mutually settled among them, they have no grievance against the accused persons, they are not willing to proceed with the case and they have no objection if the

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accused persons are acquitted. The defence side has declined to cross-examine them.

9. Now, on going through the entire material placed before me it appears that, the vital witnesses examined by the prosecution who were the informant as well as alleged victims in this case have not supported the prosecution case. Moreover, the prosecution has not adduced any other witness. In result, there is no incriminating evidence against the accused persons.

10. I, therefore, find that the prosecution side has failed to establish the guilt of the accused persons. Accordingly, the accused persons Md. Kandura Sk @ Motleb Ali, Md. Halim Sk @ Abdul Halim, Md. Aminur Islam @ Bonda Sk and Md. Abad Ali are held not guilty of offence punishable under section 448/323/294/506/34 of IPC, and they are acquitted and set at liberty forthwith.

11. Bail bonds furnished on behalf of the accused persons shall remain in force for a further period of six months.

12. Given under my hand and seal of this Court on this 1st day of June, 2019.

S. CHANDA
ADDL.C.J.M. GOALPARA.

APPENDIX:

PROSECUTION EXHIBIT:

NONE

DEFENCE EXHIBIT:

NONE

PROSECUTION WITNESSES:

1. SRI MOHIDUL ISLAM.
2. SMTI. NUREJA BIBI.

DEFENCE WITNESS:

NONE

Dictated and corrected by me,

S. CHANDA, ADDL. C.J.M. GOALPARA.

Transcribed by, SMTI . J. CHAKI (STENOGRAPHER).