

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, GOALPARA**

**GR-2380/16**

**U/S : 447/294/323 of IPC**

State

-Vs-

**Mangal Das.**

**PRESENT: RINI BHARALI,  
CHIEF JUDICIAL MAGISTRATE,  
GOALPARA.**

**ADVOCATES APPEARED**

For the State : Ld. Addl. P.P, Mr. Manaranjan Khaklary.

For the Accused : Ld. Advocate, Mr. Suraj Pathak.

EVIDENCE RECORDED ON : 30.04.2019, 22.05.2019, 30.01.2020,  
14.02.2020, 22.04.2021

ARGUMENT HEARD ON : 28.04.2021

JUDGMENT DELIVERED ON : 11.05.2021

## **JUDGMENT**

This criminal case arose when an ejarah was lodged by one Sanu Kar on 25.10.2016 at Goalpara P.S. against the accused Mangal Das alleging that on 23.10.2013 at about 6:30 pm, when he and his wife, Sumitra Kar were in their house then accused Mangal Das trespassed into his house and abused them with obscene words and rushed to kill his wife with sharp weapon. When he tried to resist the accused, then accused person hit him with sharp weapon in various parts of his body and as a result, he had sustained injury and accused person intimidated him also. Accordingly informant is praying for taking necessary action.

After receiving the case, police registered the case as Goalpara P.S. Case No. 529/2016 u/s 447/294/326/506 of IPC against the accused person and investigated the matter. After completion of investigation, police submitted the charge-sheet against the accused person, Mangal Das U/S 447/294/323 of IPC.

On being appearance, copy was furnished to the accused person. Particulars of offence U/S 447/294/323 of IPC and read over and explained to the accused person to which, he did not plead guilty and claimed to be tried.

In support of the case, prosecution has examined as many as six PWs. Defence has adduced no evidence.

Accused person was examined and his statement was recorded U/S 313 of Cr.PC and his plea is of total denial.

I have heard argument of Learned Advocates for both sides.

### **THE POINTS FOR DETERMINATION**

- I. Whether the accused person on the alleged day of incident committed criminal trespass by entering into the campus of the informant's house as alleged and thereby committed an offence punishable U/S 447 IPC;
- II. Whether the accused person on the alleged day of incident to the annoyance of the informant and his wife uttered any obscene word near a public place as

alleged and thereby committed an offence punishable U/S 294 IPC;

- III. Whether the accused on the alleged day of incident voluntarily caused hurt to informant and his wife as alleged and thereby committed an offence punishable U/S 323 IPC;

### **DISCUSSION, DECISION AND REASONS THEREBY**

It has already been stated that prosecution has examined six (6) PWs.

**PW1, Jeuti Medhi Das** deposed that she knows both the parties. She further deposed that the wife of Sonu Kar quite often used to stay nude and while the accused person went to the informant's house to complain about the matter, there was a quarrel in between them and the informant tried to hit the accused with an axe and she saved the accused person from the informant. In cross-examination, she has stated that there was allegation of the villagers that the wife of Sonu Kar used to stay nude and the accused person went to the informant to complain about the matter on behalf of the villagers.

**PW2, Madhab Rabha** deposed that he does not know the informant but he knows the accused. He does not know anything about the incident of this case.

**PW3, Sonu Kar** is the informant of this case. He deposed that he knows the accused and about two years back, one day in the evening at about 7:30 pm, while he was taking dinner in his house, accused came and grabbed the hair of his wife and caused cut injury to her with a *Korot* on various parts of her body. When he tried to prevent the accused, then the accused caused cut injury to him also with the same *Korot* on various parts of his body. Subsequently, he went to the Police Station and lodged the case. On that day he took medication with the help of police at Civil Hospital, Goalpara. In cross-examination, he denied the suggestion put by the defence that there was an allegation of villagers that they used to day nude at their residence.

**PW4, Sumitra Kar** deposed that the informant is her husband and she knows the accused also. She deposed that three years back, one night at about 6:30 pm, while she was at her residence, the accused entered into their house and caused cut injury to

her with a *Karat* on various parts of her body. When her husband tried to prevent the accused, the accused physically assaulted him also. After that she took medication at hospital and then went to the police station and lodged the ejahar.

**PW5, Dr. Bhaskar Jyoti Baishya** is Medical Officer. He stated that on 23.10.16 while he was working at Goalpara Civil Hospital as SM&HO, he examined one Sonu Kar, 60 years, male. Upon examination, he found : 1. Abrasion over right upper limb of size (1 x ½ x ¼) cm and (2 x ¼ x ¼) cm, 2. Abrasion below right shoulder joint of size 20 cm x 35 cm. In his opinion, age of injury is fresh, nature of injury is simple caused by blunt weapon. Exhibit 1 is Injury Report. Exhibit 1(1) is his signature

**PW6, A.S.I. Bimal Kumar Nath** is the Investigating Officer. He deposed that after receiving the charge of investigation, he visited the place of occurrence, prepared sketch map, recorded statement of the witnesses. He has sent the injured for medical treatment and collected the medical report. After completion of his investigation, he handed over the case diary to the OC concerned and on the basis of his investigation, SI Narayan Kalita submitted chargesheet against the accused, Mongal Das u/s 447/294/323 of IPC. Exhibit 2 is the Ejahar. The informant had put thumb impression in the ejahar. Exhibit 3 is the Sketch Map. Exhibit 3(1) is his signature. Exhibit 4 is the Chargesheet. Exhibit 4(1) is the signature of SI Narayan Kalita which he can identify.

The evidence of all the PWs are available on the case record and I have gone through the evidence on record. PW3 who is the informant of this case has stated that on the alleged day of occurrence, accused came and grabbed hair of his wife and started causing cut injury to her with a *karat* on various parts of her body. When he tried to prevent the accused, then the accused caused cut injury to him also with the same *karat* on various parts of his body.

PW4 who is the wife of the informant (PW3) she has also supported the evidence of PW3 and implicated the accused that he entered into their house and caused cut injury to her with a *karat* on various parts of her body and when her husband tried to prevent the accused, the accused physically assaulted him also. But PW2 has stated nothing against the accused person and not implicated him. He has not supported the prosecution story and not corroborated the evidence of PW3 and PW4.

So far PW1 is concerned, it appears from her deposition that she has also not supported the prosecution story and not implicated the accused person. Rather she has stated a different story that when the accused person went to the informant i.e., PW3 on behalf of the villagers for giving complain that his wife used to stay nude, then a quarrel took place in between them and the informant (PW3) tried to hit the accused person with an axe and she saved the accused from the informant.

In view of the discussion made above, it clearly appears that prosecution side has not been able to successfully establish the guilt of the accused person by removing all shadow of doubt. The lack of sufficient evidence of the prosecution has raised a presumption in favour of the accused person and hence he should be granted benefit of doubt.

In view of the above evidence, I am of the considered opinion that prosecution has failed to establish the offence u/s 447/294/323 of IPC against the accused person beyond all reasonable doubt. Hence, the accused person, Mangal Das is acquitted from the purview of section 447/294/323 of IPC on benefit of doubt and set at liberty forthwith. The bail bond shall remain extended in force for a period of another six months.

Copy of the judgment be kept with the case record.

Case is disposed of accordingly.

Given under my hand and seal of this Court, this 11<sup>th</sup> May, 2021.

**(Rini Bharali, AJS)**  
**Chief Judicial Magistrate,**  
**Goalpara.**

**APPENDIX**

**PROSECUTION WITNESSES :**

PW1, Jeuti Medhi Das

PW2, Madhab Rabha

PW3, Sonu Kar

PW4, Sumitra Kar

PW5, Dr. Bhaskar Jyoti Baishya

PW6, A.S.I. Bimal Kumar Nath

**DEFENCE WITNESS :**

NONE

**PROSECUTION EXHIBITS :**

Exhibit 1 : Injury Report

Exhibit 2 : Ejahar

Exhibit 3 : Sketch Map

Exhibit 4 : Chargesheet

**DEFENCE EXHIBIT :**

NONE

**(Rini Bharali, AJS)**  
**Chief Judicial Magistrate,**  
**Goalpara**