

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS, DIBRUGARH**

G.R. Case No: 4460/2018

Under sections 294, 323 and 506 of Indian Penal Code

State of Assam

v.

Smti Anurupa Hereng

.....accused person

PRESENT: DEEPSIKHA DAS, A.J.S

Appearing for the state: Ld APP Smti Gopa Chakraborty

Appearing for Defence: Learned Sri Ankur Chetia

Evidence recorded on: 20/1/2020 and 7/1/2022.

Arguments heard on: 7/1/2022

Judgment delivered on: 7/1/2022

JUDGMENT

Case of the prosecution

1. The case of the informant Prakash Hereng as reflected in the ejahar in brief is that on 29/11/2018, at about 3.00 pm, while his wife was cutting paddy in the rice field, one Anurupa Hereng of the same village, assaulted the victim

with a bamboo stick without any fault of her. She also threatened the victim of many things. Hence the case.

- 2.** The ejahar was registered as Moran P.S. Case No. 325/2018 under sections 325, 506 IPC. The police after investigation submitted charge sheet against the accused person under sections 294, 323, 506 IPC.
- 3.** This Court took cognizance under sec 190(b) CrPC and issued summons to the accused under sec 204 CrPC. Accused Anurupa Hereng appeared and was allowed to go on bail. Copies of relevant documents were furnished to her as per section 207 CrPC. The particulars of offences under section 294, 323, 506 IPC were explained and read over to her, to which she pleaded not guilty and claimed to be tried.
- 4.** Trial commenced. The prosecution examined only 2(two) witness that is the informant and the victim. The statement of the accused person under section 313, CrPC was dispensed with as there was no incriminating material. I have heard both sides and perused the evidence on record.
- 5.** Heard the arguments advanced by the Learned Counsel appearing for the informant and the accused.

Points for determination

6. i) Whether the accused person had, on 29/11/2018, uttered obscene words against the informant, in or near any public place to the annoyance of other persons, and thereby committed an offence under section 294 IPC?
- ii) Whether the accused person had voluntarily caused hurt to the victim and informant and thereby committed an offence punishable under section 323 IPC?
- iii) Whether the accused person, had criminally intimidated the informant and thereby committed offence punishable under section 506 of IPC?
7. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

DECISION AND REASONS THEREOF:

8. To arrive at a judicious decision, the materials on record, including the evidence recorded is gone through carefully, in the light of submission heard and appreciated as follows—
9. In his evidence, pw-1 namely **Sri Prakash Hereng** stated that one in before recording his

deposition, one afternoon he was going to his duty. His wife Nameeta Herenge, his daughter Banti Herenge and two other girls were cutting paddy in the Paddy field. While the two girls were clearing the field the accused scolded those girls by saying that they wear breaking their bamboo gate. Then his wife replied that they were not breaking the bamboo gate but clearing the field. Accused person had thrown a bamboo stick to his wife, which hit her head and she got injury and fell down and bleed. Then the neighbours called 108 Ambulance and injured was sent to Moran State Dispensary. He stated that he was informed about the incident by his son over phone. On that very day he lodged ejahar in Moran PS. He identified exhibit 1 as the ejahar and his signature as exhibit 1(1). He stated that police seized the bamboo stick. He again stated that police took his signature during verification. He identified exhibit 2 as the seizure list and his signature as exhibit 2(1). He further stated that he did not know where he put his signature. He further stated that they brought the bamboo stick which was lying at the place to their house. When police asked they gave it to the police. Material Exhibit 1 is recognised by him as the said bamboo stick. He stated that he was told about the incident in detail by his wife.

In his cross examination he stated that he was not present at the time of occurrence. He was at the Moran town. He stated that Moran Town is about 4 kilometres from his house. He again stated that he was told about the incident by his son Pramod Herenge over phone. He stated that he told about the incident to the police as he was told by his wife. He again stated that the ezahar was written by another person. He stated that he didn't read the ejahar but it was read over to him. He knew Assamese. He stated that in the ejahar the time of occurrence was mentioned as 3 pm. He stated that in the ejahar it was written that his wife was assaulted by a bamboo stick, in fact it was Thumroo. He denied the suggestion that he did not told to the police that the reason of quarrel was cleaning the paddy field.

He stated that the injured was first sent to the police station and then to the hospital. He stated that the cultivated land of both the parties is adjacent. He also stated that the land of accused and his brother is also adjacent. He stated that he did not know if there is any quarrel between the accused and his brother regarding cultivating land. He denied the suggestion that the accused did not assault his wife.

10. Pw-2 Namita Hereng in her evidence stated that the informant was her husband and

accused was her sister in law. She stated that she was cutting daughter Banti Herenge and two other girls namely Sunita and Bhaniwere cutting paddy in their Paddy field. While the two girls were clearing the field the accused scolded those girls by saying that they were breaking their bamboo gate. Then she replied that they were not breaking the bamboo gate but clearing the field. Accused person had thrown a bamboo stick to his wife, which could not hit her. Thereafter she threw a thumroo (used for fixing bamboo gate) hit her head and she got injury and fell down and bled. Then the two girls rushed and called 108 Ambulance and she was sent to Moran State Dispensary. She stated that she did not know what happened afterwards. She stated that she got three stitches on her head. After that her husband lodged ejahar. She identified exhibit 2 as the seizure list and her signature as exhibit 2(1). Material Exhibit 1 is recognised by her as the said thumroo.

In her cross examination she stated that there were two other women in the paddy field besides them. She also stated that at the time of incident a train crossed. She stated that when she fell down, two women namely Meera Tapna and Ili Tapna came and poured water on her and bandaged the injured area.

She denied the suggestions. She stated that she did not know if there was any quarrel between her brother-in-law Pratap Herenge and the accused. She denied that the relation between her and the accused was not good. She further stated that her daughter brought the bamboo stick which was lying at the place to their house.

11. Thereafter the Ld. Defence Counsel prayed for re-examining the witness (pw-1) as new developments took place between the parties. Therefore the informant cum victim was re-examined and cross examined.

In the re-examination, informant pw1 Prakash Hereng stated that he and the accused have settled the matter amicably. He does not want to proceed with the case anymore.

In his cross examination, he stated that he does not have any objection if the accused is acquitted.

In the re-examination, victim (pw2) Namita Hereng stated that her husband has filed the case against the accused due to misunderstanding. Now they have settled the matter.

In her cross examination, she stated that she does not have any objection if the accused is acquitted.

12. Situated thus, from the scrutiny of record in absence of any incriminatory material against the accused, it can be inferred that the accused did not commit any offence as alleged in the ejahar. Thus, in view of the above testimony of pw1 (informant) and pw2 (victim), I find no ground to hold the accused person guilty of the alleged offences.

ORDER

13. Accordingly, the accused persons namely, Smti Anurupa Herenga is acquitted of the offences punishable under sections 294, 323 and 506 of the Indian Penal Code and set at liberty forthwith.

14. The bail bond furnished, shall remain in force till six months from today, as required under sec 437A CrPC.

15. The case is disposed of on compromise.

16. Given under my hand and seal of this Court on this 7/1/2022.

Deepsikha Das
Judicial Magistrate First Class,
Dibrugarh

Appendix

Prosecution Witnesses:

PW-1: Prakash Hereng

Pw-2: Namita Hereng

Defence Witnesses: None.

Prosecution Exhibits:

Exhibit 1: Ejahar

Exhibit 2: seizure list

Defence Exhibits None.

Deepsikha Das
Judicial Magistrate First Class,
Dibrugarh