

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,  
BONGAIGAON

CR 162/13

U/S 447/323/427/506/511/34 I.P.C

SMT. RAJKUMARI RAY

W/O LATE BUDA RAY

DEURIPARA, BONGAIGAON, ASSAM..... Complainant

VERSUS

SMT. SARALA RAY AND OTHERS

DEURIPARA, BONGAIGAON, ASSAM..... Accused

PRESENT: SYEDA FARIDA AFZAL ZINNAT, AJS

FOR THE COMPLAINANT: MR. K. CHAKRAVARTY,  
ADVOCATE

FOR THE ACCUSED: MR. S. MAZUMDAR, ADVOCATE

EVIDENCE RECORDED ON: 26/11/2014

ARGUMENTS HEARD ON: 26/11/2014

JUDGMENT DELIVERED ON: 28/11/2014

### JUDGMENT

1. On. 12.6.2013 Rajkumari Ray, w/o Late Buda Ray of Deuripara, Bongaigaon, lodged a complaint petition in the Court of Chief Judicial Magistrate, Bongaigaon that on 8. 6. 2013 when three labours of the same village were repairing her thatched house her neighbours namely Gajen Ray, Sarala Ray, Ratneswar Ray,

Narayan Ray, Sanjay Ray and Soma Ray forcefully entered into her compound and stopped the work and threatened the labours. Thereafter the accused persons damaged the bamboo and caused the complainant to suffer loss of Rs. 3000/- and also assaulted her. It is also stated in the petition that the accused Narayan Ray started pouring kerosene on the house of the complainant but due to intervention of witnesses Bipul Ray and Bina Sarkar they could not set fire to her house. The complainant Rajkumari Ray was examined u/s 200 Cr.P.C and cognizance was taken against the accused persons above named u/s 447/323/427/506/511/34 I.P.C and summonses were issued. Accused person appeared and were allowed bail.

2. During trial the complainant examined three witnesses including her. The accused persons were examined u/s 313 Cr.P.C in which they denied all the allegations levelled against them but declined to adduce any evidence. I have heard arguments advanced by learned counsels of both the parties.

1) POINTS FOR DETERMINATION: Upon perusal of the case record I have framed the following points to be determined:

- a) Whether the accused persons on 8/6/2013 at about 10.30 am at Pahartoli, Deuripara, in furtherance of their common intention entered into or upon the property in the possession of the complainant with intent to commit an offence and thereby committed an offence punishable u/s 447 I.P.C?
- b) Whether the accused persons on the same date, time and place, in furtherance of their common intention, voluntarily caused injury to the complainant and thereby committed an offence punishable u/s 323 I.P.C?

- c) Whether the accused person on the same date and time, in furtherance of their common intention caused mischief and thereby caused damage to the amount of Rs. 3000/- and thereby committed an offence punishable under section 427/511 IPC?
- d) Whether the accused persons on the same date, time and place, in furtherance of their common intention, criminally intimidate the complainant and her labours and thereby committed an offence punishable under section 506 IPC?

#### DISCUSSIONS, DECISION AND REASONS:

- 2) PW1 stated during her evidence that she has lodged this case against accused Gajen, Tepra, Lalit, Sanjay, Sarala and Sumitra. That, about a year ago she had employed labours to repair her house. That, the accused persons prevented the labours from working and broke the newly constructed house. According to her she had employed Sarat and Holong as labours. She stated that the accused persons abused her and even now they abuse her. She also stated that she incurred loss amounting to Rs. 3000/-.
- 3) During cross examination PW1 stated that accused persons are the in-laws of her son. She admitted that the land on which she is residing is given to her by the accused persons for marrying their daughter.
- 4) PW2 Holong Ray and PW3 Sarat Ray stated in the same tune that they went to construct a house on the invitation of the son of the complainant and that they constructed the thatched roof but the Gajen did not allow them to erect the roof. Both these PWs admitted that the accused persons did not intimidate them. They also stated that except Sarala and Gajen, the other accused persons were not present at the time of the occurrence.

- 5) Thus it is seen that the witnesses did not support the evidence of the complainant. According to these two PWs, except Gajen and Sarala, other accused persons were not present at the place and time of occurrence. Therefore, it appears to me that the complaint has been filed only to harass the in-laws of the son of the complainant.
- 6) It is important to note here that the complainant in her examination under section 200 Cr.P.C did not support some of the major contents of her complaint petition. To point a few, she had written in her petition that accused Narayan Ray poured kerosene on her house and due to intervention of Bipul Ray and Bina Sarkar the accused persons could not set fire to her house. But in her examination under section 200 Cr.P.C. she stated that the accused persons threatened to burn her house. Again in her evidence in chief there is no mention of any such instance of intimidation or instance of trying to set fire on her house. It is found that the complainant herself has not stood by her case. She is not steadfast in her stand and there are serious lacunae in her evidence and complaint petition which renders the prosecution case its weaknesses and these lacunae could not be traversed by the prosecution in order to establish its case. As a result I hold that the accused persons are not guilty and hence they are acquitted.

#### ORDER

Accused persons namely Gajen Ray, Sarala Ray, Ratneswar Ray, Narayan Ray, Sanjay RAY AND Soma Ray are hereby acquitted of the offences. Bail bonds are extended to a period of six months. Given under the hand and seal of this Court of this Court on this the 28th day of November 2014.

Syeda Farida Afzal Zinnat  
J.M.F.C Bongaigaon

APPENDIX:

LIST OF WITNESSES:

Witness for the complainant:

1. Smt. Rajkumari Ray
2. Holong Ray
3. Sarat Ray