

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

BONGAIGAON

PRESENT: SYEDA FARIDA AFZAL ZINNAT

G.R CASE NO: 338/2012

STATE OF ASSAM VERSUS SABI RAHMAN AND OTHERS

U/S 341/323/294/34 IPC

FOR THE PROSECUTION: MR. R.C.MAHATO, LEARNED ASST. P.P

FOR THE DEFENCE: MR.N.I.SIDDIQUE, LEARNED ADVOCATE

EVIDENCE RECORDED ON: 17.1.2013, 24.4.2013, 9.5.2013,
16.7.2013, 30.9.2013

ARGUMENTS HEARD ON: 10.10.2013

JUDGMENT DELIVERED ON: 10.10.2013

JUDGMENT

1. The facts and circumstances leading to this case as stated by the Prosecution in brief is that on 6.6.2012, informant Md. Mazid Kha lodged an FIR with Bongaigaon P.S to the effect that on 31.5.2012 at about 9.30 am in his absence when his wife went to the tea stall of Msst. Hamida, the accused person namely Sabi Rahman dragged her out of the tea stall with evil intention and when she raised alarm he started to assault her by kicking and

punching her and he also tore her blouse. Upon receiving the FIR a case was duly registered and investigated upon. During investigation a prima facie case was found to be well established under sections 341/323/294/34 IPC against the accused persons namely Sabi Rahman @ Sabibur Rahman, Msst. Amiron Nessa and Msst. Anowara Khatun and accordingly Police submitted Charge Sheet U/S 341/323/294/34 IPC against the accused persons above named.

2. Cognizance had been taken under sections 341/323/294/34 IPC against the accused persons.
3. Upon appearance copies of the relevant documents were supplied to the accused persons in compliance with section 207 Cr.P.C.
4. After considering the relevant documents produced by the police I found prima facie material under sections 341/323/294/34 IPC against the accused persons. Accordingly particulars of the offences were explained to the accused persons to which they pleaded not guilty and claimed to be tried.
5. Prosecution adduced the evidence of seven witnesses. After closure of prosecution evidence the accused persons were examined under section 313 Cr.P.C in which they denied all the allegations levelled against them. The accused Sabibur Rahman examined himself as defence witness.
6. After considering the relevant documents and after hearing the defence and the prosecution I find that following are the points to be determined in this case:

- 1) Whether the accused persons on 31.5.2011 at about 9.30 am near the tea stall of Msst. Hamida, in furtherance of their common intention, wrongfully

restrained the informant and thereby committed an offence punishable U/S 341 IPC?

2) Whether the accused persons on the same date, time and place, in furtherance of their common intention voluntarily caused injury to the informant and thereby committed an offence punishable U/S 323 IPC?

3) Whether the accused persons, on the same date, time and place, in furtherance of their common intention abused the informant with obscene language to the annoyance of others and thereby committed an offence punishable U/S 294 IPC?

7. DISCUSSION ON EVIDENCE, DECISION AND REASONS THEREOF:

8. PW1 Haziron Bibi is the wife of informant. She stated that on the date of occurrence at about 9.30 am she went to the shop of Hamida for buying biscuit. After coming out of the shop Sabi Rahman asked her why she did not buy biscuit from his shop and started to abuse her with obscene language. At this PW1 stated to have protested and then according to PW1 the accused Sabi Rahman kicked her on her chest. She then added that Amiron and Anna @ Anowara also assaulted her. PW2 Mazid Kha is the informant and he was not present at the place of occurrence when the occurrence is alleged to have taken place. According to PW2 he came to know about the incident from his wife when he returned home after work. He stated that as he was busy with the treatment of his wife there was a delay in lodging the ejahar. During cross examination PW2 admitted that accused Sabi Rahman had lodged a case against him and his wife on 31.5.2012 alleging that they have abused Sabi Rahman, Anowara and Amiron with

obscene language and assaulted them. PW3 Hamida Bibi stated that on the date of occurrence when Haziron Bibi went out of her shop accused Anowara and Amiron quarrelled with her. She further stated that accused Sabi Rahman interfered and stopped the fight. During cross examination PW3 stated that Haziron Bibi also assaulted in retaliation. PW4 Suraj Jamal stated that he was not at the place of occurrence at the relevant time. He stated that when he went to Mazid's shop at about 10 pm he heard that all the three accused persons had assaulted Haziron. PW6 Habibur Rahman stated that he had seen Amiron drag Haziron from the shop of Hamida and that all the three accused persons had assaulted her. PW7 Dr. Reza M.A. Ahmed examined Msst Haziron Bibi on 31.5.2012. PW7 stated that the patient was conscious, oriented and GCS (Glassgow Comma Scale) was 15/15 i.e. patient was normal. On local examination mild tenderness was found over both upper arm and chest. No bony fracture and external bleeding was seen. In the opinion of the doctor injury was simple. He exhibited the medical report as Exhibit 3 and his signature as Exhibit 3(1). During cross examination PW7 stated that the age of injury is not mentioned in the report. PW5 is the investigating Officer who exhibited the charge sheet as Exhibit 2 and the signature of S.I Rajiv Kumar Ray as Exhibit 2 (1).

9. DW1 stated that on the date of occurrence i.e. on 31.5.2012 his wife had lodged an ejahar against the informant and his wife alleging that they had assaulted her. According to him he reached the place of occurrence and saw that the wife of the informant was quarrelling with his wife and sister. At this he stopped them from fighting.

10. A close scrutiny of the evidence on record shows that the version of DW1 is supported by PW3 who stated that Haziron, Anowara and Amiron were quarrelling and Sabi Rahman came and stopped the quarrel. It also transpires from the evidence on record that the accused persons had already lodged an ejahar against the informant and his wife regarding the occurrence that took place on 31.5.2012. Six days later the instant ejahar was lodged. Further it is relevant to mention that the ejahar does not contain any allegation against Amiron and Anowara. The ejahar was lodged alleging that Sabi Rahman had assaulted the wife of the informant. But after appreciating the evidence on record I found that Sabi Rahman reached the place of occurrence when Amiron and Anowara and Haziron were quarrelling and he stopped them from fighting.
11. Therefore I am of the considered opinion that prosecution could not prove the guilt of the accused persons beyond all reasonable doubt.

Order

The accused persons namely Sabibur Rahman, Anowara Begum and Amiron Begum are hereby acquitted of the offences U/Ss 341/323/294/34 IPC. Bail Bonds are extended to a period of six months. Given under the hand and seal of this court on this the 10th day October 2013.

Syeda Farida Afzal Zinnat, AJS

J.M (1st CLASS) BONGAIGAON

APPENDIX:

Following are the lists of exhibits which were exhibited during the trial:

- 1) Exhibit 1: the F.I.R
- 2) Exhibit 1(1): the signature of the informant i.e.
(PW1)
- 3) Exhibit 2: Charge Sheet
- 4) Exhibit 2(1): Signature of Rajiv Kumar Ray
- 5) Exhibit 3: Medical Report
- 6) Exhibit 3(1): Signature of M.O

LIST OF WITNESSES:

1. Haziron Bibi
2. Mazid Kha
3. Hamida Bibi
4. Suraj Jamal
- 5.
6. Habibur Rahman
7. Dr. Reza M.A. Ahmed

