

**GR 409/2016**  
**State Vs Saiful Mondal & Ors.**

DISTRICT: BONGAIGAON.  
IN THE COURT OF MUNSIFF CUM JUDICIAL MAGISTRATE FIRST CLASS, BONGAIGAON

**G.R. CASE NO. 409/2016 UNDER SECTIONS 294/447/34 IPC**

1. SAIFUL MONDAL,  
SON OF SALAM MONDAL
2. HAKIM UDDIN MONDAL,  
SON OF LATE BAHADUR ALI MONDAL
3. SABED ALI MONDAL,  
SON OF LATE BAHADUR ALI MONDAL

ALL RESIDENTS OF VILLAGE: NO. 2 SUPARIGURI, PS: MANIKPUR,  
DISTRICT: BONGAIGAON, ASSAM

.....**ACCUSED PERSONS**

**-VERSUS-**

STATE OF ASSAM –

.....**PROSECUTOR**

PRESENT: UTTAM CHETRI, MUNSIFF CUM JUDICIAL MAGISTRATE FIRST CLASS, BONGAIGAON

ADVOCATE FOR THE PROSECUTION:	APP, AK DEKA
ADVOCATE FOR THE ACCUSED PERSONS:	ADV. SWAHIDA KHATUN
OFFENCE EXPLAINED ON:	22.02.2017
EVIDENCE RECORDED ON:	07.04.2017
ARGUMENT HEARD ON:	07.04.2017
JUDGMENT DELIVERED ON:	07.04.2017

**JUDGMENT**

**1.** The prosecution case in a nutshell is that the informant Salam Mondal lodged an FIR with the Manikpur Police Station on 09.05.2016 stating inter alia that on 17.02.2016 the accused persons illegally entered his premises, hurled slang words on him and his wife and assaulted him and his wife Nur Jahan Begum due to which they were severely injured.

**2.** On receipt of the FIR, the police registered Manikpur Police Station Case No. 108/16 under Sections 447/448/325/34 IPC and conducted investigation into the matter. On completion of the investigation, the police submitted charge-sheet against the accused persons namely Saiful Mondal, Hakim Uddin Mondal and Sabed Ali Mondal under Sections 447/294/34 IPC.

**3.** The accused persons entered their appearance in response to the process issued. Copies of the relevant documents were furnished to the accused persons in accordance with Section 207 Criminal Procedure Code, 1973. Offences under Sections 447/294/34 IPC was read over and explained to the accused persons to whom they pleaded not guilty and claimed to be tried.

**4.** During trial, the prosecution examined 2 (two) witnesses after which the prosecution evidence was closed. The statement defence of the accused persons was dispensed with due to lack of sufficient materials against them. Defence did not adduce any evidence.

**5.** Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this Court.

- i)** Whether the accused persons namely Saiful Mondal, Hakim Uddin Mondal and Sabed Ali Mondal in furtherance of their common intention on 17.02.2016 did an obscene act namely uttered/hurled slang words on the informant and his wife in a public place and that such an utterance was obscene and that it caused annoyance to others and, thereby, committed an offence punishable under Section 294 IPC read with Section 34 IPC?
- ii)** Whether the accused persons namely Saiful Mondal, Hakim Uddin Mondal and Sabed Ali Mondal on the same day and time and in the same place in furtherance of their common intention committed criminal trespass by entering into or upon the property of the informant which was in the possession of the informant with intent to commit an offence or to intimidate or insult or annoy

the informant and, thereby, committed an offence punishable under Section 447 IPC read with Section 34 IPC?

6. I have heard the learned counsel for both the parties and have gone through the evidence on record which is outlined below.

### **EVIDENCE**

7. PW1 had stated in his examination in chief that he is the informant in the present case and he knows the accused persons namely Saiful Mondal, Hakim Uddin Mondal and Sabed Ali Mondal who are standing at the dock; that he had lodged the FIR against the aforesaid accused persons out of which this case arose due to certain misunderstanding; that he has no objection if the aforesaid accused persons are acquitted from the present case. Defence declined to cross-examine PW1.

8. PW2 had stated in her examination in chief that the informant is her husband and she knows the accused persons who are standing at the dock; that her husband lodged the case against the accused persons due to certain misunderstanding; that the accused persons had not assaulted her; that she has no objection if the aforesaid accused persons are acquitted from the present case. Defence declined to cross-examine PW2.

### **APPRECIATION OF EVIDENCE**

9. After going through the evidence of PW1 who is the informant and the alleged victim in this case and PW2 who is the alleged victim in this case, it transpires that the informant/victim has derailed from the allegations set forth in the FIR. It seems that the FIR was lodged by the informant due to certain misunderstanding. Accordingly, I held that the prosecution has failed to prove beyond reasonable doubt that the accused persons namely Saiful Mondal, Hakim Uddin Mondal and Sabed Ali Mondal had committed offences punishable under Sections 294/447/34 IPC. As such, both the points for determination are answered in the negative in favour of the accused persons.

**ORDER**

In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused persons namely Saiful Mondal, Hakim Uddin Mondal and Sabed Ali Mondal had committed offences punishable under Sections 294/447/34 IPC. As such, the accused persons namely Saiful Mondal, Hakim Uddin Mondal and Sabed Ali Mondal are acquitted of the charges under Sections 294/447/34 IPC. The bail bond of the accused persons and their surety shall remain in force for a period of 6 months from today in compliance with Section 437-A Criminal Procedure Code, 1973. Case is disposed of on contest.

Given under my hand and seal of this court on this 7<sup>th</sup> day of April, 2017 at Bongaigaon.

(Uttam Chetri)  
Munsiff cum Judicial  
Magistrate First Class,  
Bongaigaon

**APPENDIX**

**PROSECUTION EXHIBIT: NONE**

**DEFENCE EXHIBIT: NONE**

**PROSECUTION WITNESSES:**

PW1 - Salam Mondal

PW2 - Nur Jahan Begum

**DEFENCE WITNESS: NONE**

(Uttam Chetri)  
Munsiff cum Judicial  
Magistrate First Class,  
Bongaigaon