

**BEFORE THE JUVENILE JUSTICE BOARD, BONGAIGAON**

**Present:** Mrs. S. Handique, AJS

Principal Magistrate, JJB, Bongaigaon

Mr. D. C. Basak,

Member, JJB, Bongaigaon

Mrs. R. Choudhury,

Member, JJB, Bongaigaon.

**JJB Case no. 7/14**

**(u/s 341/323/294/506/34 IPC)**

**State**

**V.**

**1. Jesmi @ Jesmina Begum**

**2. Bobidul Skeikh @ Bulbul Sheikh**

**3. Ateema Begum @ Ruma Begum**

Evidence recorded on: 1-7-14, 31-7-14, 4-9-14

Juvenile examined u/s 313 Cr. P.C. on: 9-9-14

Arguments heard on: 9-9-14

Judgment delivered on: 18-9-14

For prosecution: Mr. T.K. Bhowmik

For defence: Mr. J. Islam

**JUDGMENT**

1. The prosecution story of this case before the JJB is that informant Mohiruddin Sheikh lodged an FIR on 2-10-13 against Dhajiruddin Sheikh, Bobidul Sheikh, Minara Bibi, Alema Begum, Jesmi Begum and Afruza

Begum alleging that on 18-9-13 at 7.30 A.M. the accused wrongfully restrained him while he was sitting in his shop and assaulted him. He further alleged that the accused are encroaching his passage and on 27-9-13 they tried to demarcate the land. When he protested the accused assaulted him and abused him in filthy language. He also alleged that the accused assaulted his wife too.

2. The FIR was registered as Bongaigaon P.S. Case no. 495/13 u/s 143/341/323/325/354/294/506 IPC and after investigation the police filed the charge sheet against Dhajirudding Sheikh and Minara Khatun. The Id. CJM, Bongaigaon took cognizance in this case and transferred it to the court of Id. JMFC, Bongaigaon. However during trial Id. JMFC, Bongaigaon took cognizance of the offence against the FIR named accused Bobidul, @ Bubbul, Alima @ Ruma Begum, Afruza Begum and Jesmina Begum as per provisions u/s 319 Cr. P.C. The newly added accused appeared on being summoned. However, Bobidul Sheikh, Jesmina Begum and Ruma Begum were declared as juveniles and the case was split up against them and their case was forwarded to this Board.
3. After receiving the case record, the Board released the three juveniles in conflict with law (hereinafter referred to as JCWL) on bail. Necessary copies were supplied to them and the particulars of offence u/s 341/323/294/506/34 (A)IPC were explained to the juveniles to which they pleaded not guilty and claimed trial.
4. During enquiry six witnesses were examined by the prosecution including the investigating officer. JCWL were examined u/s 313 Cr. P.C wherein they denied the incriminating materials put to them and also declined to adduce defence evidence. Heard arguments from both the sides.
5. The following points for determination have been framed in this case:

#### **POINTS FOR DETERMINATION:**

1. *Whether JCWL Bobidul Sheikh, Jesmina Begum and Ruma Begum in furtherance of their common intention wrongfully restrained the informant at his shop on 18-9-13 at 7. A.M. and thereby he committed an offence punishable u/s 341/34 IPC?*
2. *Whether JCWL Bobidul Sheikh, Jesmina Begum and Ruma Begum in furtherance of their common intention assaulted the informant and his wife on 18-9-13 and 27-9-13 and thereby he committed an offence punishable u/s 323/34 IPC?*
3. *Whether JCWL Bobidul Sheikh, Jesmina Begum and Ruma Begum in furtherance of their common intention abused the informant in obscene language on 27-9-13 and thereby he committed an offence punishable u/s 294/34 IPC?*
4. *Whether JCWL Bobidul Sheikh, Jesmina Begum and Ruma Begum in furtherance of their common intention criminally intimidated the informant and his wife on 27-9-13 and thereby he committed an offence punishable u/s 506/34 IPC?*

## **DISCUSSIONS, DECISIONS AND REASONS THEREOF:**

### **DECISION ON POINT NO. 1, 2, 3,4, 5:**

6. All the four points are taken up together for convenience of discussion. Let us examine the evidence on record. **PW1 Mazida Begum** is a neighbour. She deposed that while she was leaving for her work on that day she saw the juveniles who were standing on the road with sticks in their hands. She does not know what happened thereafter as she left for her workplace.
7. **PW2 Amena Khatun** is informant's wife. She deposed that on 18-9-13 in the morning hours while her husband was discussing with her about the road, the parents of the juveniles came out and argued with them. According to her, the father of the juveniles suddenly caught her husband. Her husband freed himself from his clutch and proceeded to his shop. Then the father of the juveniles called the juveniles who came with sticks in their hands and assaulted her husband. She stated that when she tried to save her husband, the juveniles, Bobidul in particular, assaulted her. She alleged that the juveniles tore off her clothes. According to her, she and her husband went to the hospital for treatment and then lodged the FIR. She testified during cross examination that there is a cross case filed against them and they filed the present case after lodging of the case by the father of the juveniles. She denied that she did not implicate the juveniles in her statement made before the police.
8. **PW3 Mohiruddin Sheikh** is the informant. He deposed that while he was leaving for his shop, he saw a boundary fencing on the passage. He then asked his wife to tell his brother to remove it. Thereafter the father of the juveniles argued with him and suddenly caught him at his waist. He stated that he shirked himself off. But thereafter the juveniles assaulted him and as a result his spectacles got broken. He alleged that his wife was assaulted too and her clothes were torn off. Thereafter they went for treatment and came to know that the father of the juveniles has lodged an FIR. So he also lodged a case. He could not say during cross examination whether his FIR was lodged before or after the FIR lodged by the other side. He stated that he sustained injury on his left eye and head. But he admitted that there was no mention of his injury in the FIR.
9. **PW4 Akbar Ali** deposed that he was not present at the time of occurrence though he heard later on that Mohiruddin and Dhajiruddin were fighting. **PW5 Nizamuddin Sheikh** is also a neighbour. He stated that his wife informed him that Mohirudding and Dhajiruddin were quarrelling in front of Dhajiruddin's house. He thereafter came out and saw that both the parties were holding lathis in their hands. He stated that the juveniles were standing

at a distance. He also stated that he intervened and sent the parties to their respective homes. He testified during cross examination that the juveniles were not involved in any fighting and they were standing within their campus. He also deposed that the juveniles were not involved in any verbal duel.

10. **PW6 Jay Ch. Das** is the I/O. He deposed that he investigated the case and found evidence against Dhajiruddin and Minara Bibi. He exhibited the certified copy of the charge sheet as Ext. 2. He testified that he did not find any evidence against Bobidul, Alema, Afruza and Resmi, so they were not charge sheeted. He testified that none of the witnesses examined by him had implicated the juveniles. Thus it transpires from the above discussions, the witnesses have not supported or corroborated the version of informant and his wife. None of the independent witnesses implicated the juveniles.
11. The juveniles denied the incriminating materials on being examined u/s 313 Cr. P.C. The allegation brought against the juvenile are not proved beyond reasonable doubt. Hence we deem it fit to acquit the juveniles of the allegations. They are set at liberty forthwith and their bail bonds stand cancelled. Given under the hand and seal of the Juvenile Justice Board, Bongaigaon on 18-9-14.