

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE: : : :
TINSUKIA

Present: Smt. Audri Bhattacharyya, A.J.S.
Chief Judicial Magistrate,
Tinsukia.

GR. No. 2570/17

Under Section 294/506 of the Indian Penal Code

The State of Assam.....Complainant

-Versus-

(1) Smti Nilima Tanti.....Accused person

Appearance:-

Smti Jamila Khaton

Ld. Addl. Public Prosecutor.....For the State

Sri N. Bose

Advocate.....For the accused

Evidence recorded on : 27.11.2018, 26.12.2018,
14.03.2019, 31.05.2019.

Date of Argument : 12.07.2019.

Date of Judgment : **25.07.2019**

J U D G M E N T

1. The prosecution case in brief is that on 08.12.17 the complainant Smti Gita Bhumij along with some local people of Hukanpukhuri Tea Estate filed an *Ejaha*r before the Officer in charge, Tinsukia Sadar PS. stating *inter alia* that on 07-12-2017 at about 2.00 p.m. Smti Nilima Tanti was carrying on construction work of a pucca house over a plot of land belonging to Hukanpukhuri Tea Estate. On 07.12.2017, she constructed a bamboo fencing over the common passage through which people of that locality used to pass through and she intended to have the said land of the passage under her possession. While the complainant along with other villagers intervened Smti Nilima Tanti from carrying further construction work, Smti Nilima Tanti abused them using filthy language and she herself tore her wearing dress/clothes in front of them. Hence, the case.

2. Upon receiving the *Ejaha*r, the officer-in-charge, Tinsukia PS. registered a case vide Tinsukia PS. case No.1535/17 u/s 294/506/34 of IPC. Police investigated the case and filed charge-sheet against the accused Smti Nilima Tanti u/s 294/506 of IPC. Summons were served upon the accused person and on her appearance copy was furnished and the particulars of offence u/s 294/506 IPC was read over and explained to the accused, to which she pleaded not guilty and claimed to be tried.

3. The prosecution examined 5 (Five) Pws. including the I.O.. Heard the argument and perused the evidence on record carefully.

4. **Point for determination:**

The following points are considered for determination of this case:

i) Whether the accused person on 07.12.17 uttered filthy language abusing the complainant and other people of the locality thereby committed an offence liable to be punished under section 294 IPC ?

ii) Whether the accused person on 07.12.2017 threatened the complainant with dire consequences of life and thereby committed an offence liable to be punished under section 506 IPC ?

Discussions, Decisions And Reason :

5. The prosecution adduced the following evidence for establishing their case:

6. PW-1, Smti Geeta Bhumij is the informant along with 34 other signatories. She deposed in her evidence that on 07.12.17 at about 2.00 pm, the accused constructed fencing over the common passage from where the villagers of Hukanpukhuri village used to pass through. She along with the villagers told her to open the passage as they have been using the said passage for long time but accused abused them with filthy language and threatened that she would institute a false case against them. The accused herself tore her wearing clothes and lodged an ejahar. Thereafter, a meeting was called by the villagers and after discussion, they lodged the ejahar before the Tinsukia Police Station. Ext.1 is the ejahar and Ext.1(1) is her signature. Police recorded her statement in connection with the case.

7. Pw.2 Sri John Tirkey deposed in his evidence that the occurrence took place on 07.12.2017 at about 1.30 pm. At that time while accused Nilima Tanti was putting on fencing over her own land, the informant Gita Bhumij along with Kushal Bhumij and Tinku Bhumij assaulted accused Nilima Tanti and damaged her wearing cloth. On the next day, police came to the PO and recorded his statement.

8. Pw.3 Sri Dilip Garh deposed in his evidence that the incident took place about 1 year ago. On the day of incident, he was engaged by the accused for construction of bamboo fencing over the passage near her house. Then, one person from the said locality came there and restrained them from carrying out bamboo fencing. **“At this stage the witness was declared hostile as prayed by the prosecution.”**

9. Pw.4 Sri Dayaram Gossai is a hearsay witness. He deposed in his evidence that the incident took place about 1 year ago. He came to know from his family members that a quarrel took place between the accused and the complainant. There were many other persons who came along with the complainant and the quarrel took place regarding the passage nearby. He also came to know that some bamboo fencing construction work was carried over the said passage by the accused person.

10. Pw.5, the IO Sri Brojen Borgohain deposed in his evidence that on 08.12.17 the complainant Gita Bhumij along with 34 persons lodged an ejahar before O/c, Tinsukia PS and after getting the ejahar the same was registered as Tinsukia PS C/No. 1535/17 u/s 294/506/34 IPC and The O/C Tinsukia P.S. endorsed him for investigation of the said case. Ext.1 is the ejahar and Ext.1(2) is the signature of Ajoy Kr. Das, O/c of Tinsukia PS, which he knew. After taking the charge of investigation, he examined the complainant and recorded her statement in the PS. Thereafter he proceeded to the PO at Hukanpukhuri 5 no. gaon and drew a sketch map of the PO. Ext.2 is the sketch map and Ext.2(1) is his signature. He searched for the accused but he could not find her. On 14.12.17, the accused appeared before him at Tinsukia PS and after interrogation he arrested accused Nilima Tanti and later on released her on bail. After completion of investigation, he filed C.S

against accused Nilima Tanti getting materials against her u/s 294/506 of IPC. Ext.3 is the C.S and Ext.3(1) is her signature.

11. Going through the evidence on record it is reflected that out of 5 prosecution witnesses ,PW5 is the I.O of the case and he deposed with regard to investigation carried out by him in his official capacity. PW1 Smt. Geeta Bhumij is the informant of the case deposed that the accused had abused them using filthy language but this witness is silent with regard to any specific slang word uttered by the accused person. PW2 Sri John Tirkey did not support the allegations made in the ejahar and rather deposed that the informant Geeta Bhumij along with Kushal Bhumij and Tinku Bhumij had assaulted the accused person. PW3 Sri Dilip Garh had also did not support the prosecution story as alleged in the ejahar and this witness was declared a hostile witness. The other independent prosecution witness PW4 Sri Dayaram Gossai had also no personal knowledge regarding the occurrence and he heard that there was only a quarrel between the accused and the informant. Thus, prosecution side failed to adduce any corroborating witness to prove that the accused person had uttered filthy language or threatened the informant with dire consequences so as to attract offences u/s 294/506 of IPC.

12. Considering the above reasons, I find that the prosecution failed to prove the ingredients of Sections 294/506 of IPC against the accused person beyond reasonable doubt. Accordingly, the accused Smt. Nilima Tanti is acquitted from the offences punishable u/s 294/506 of IPC and I exonerate the accused person from the above offence, setting her at liberty forthwith. The bail bonds shall stand cancelled after six months.

13. This case is accordingly disposed of.
Given under my hand and seal of this Court on the
25th day of **July, 2019.**

Dictated and corrected by me.

(Audri Bhattacharyya)
Chief judicial Magistrate,
Tinsukia.

(Audri Bhattacharyya)
Chief Judicial Magistrate,
Tinsukia.

APPENDIX**PROSECUTION WITNESSES**

P.W1- Smti Geeta Bhumij,
P.W2- Sri John Tirkey,
P.W3- Sri Dilip Garh,
P.W4- Sri Dayaram Gossai,
P.W5- Sri Brojen Borgohain.

PROSECUTION EXHIBITS:

Ext.1- Ejahar,
Ext.2- Sketch map,
Ext.3- Charge sheet.

(Mrs Audri Bhattacharyya)
Chief Judicial Magistrate,
Tinsukia.