

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (SADAR)
TINSUKIA

Present: S. Sultana, AJS
SDJM(S), Tinsukia

GR CASE NO. 2316/2016

U/S 341/506/34 IPC

State of Assam

Vs

1. Ritu Konwar

2. Ilu Das

.....ACCUSED

Advocate for prosecution: Learned Banti Hazarika

Advocate for defence: Learned Sreeram Prasad

Offence Explained on: 06-07-2018

Date of Evidence: 25-02-2019

Date of Argument:17-05-2019

Date of Judgment: 17-05-2019

JUDGMENT

1. The prosecution case succinctly is that informants Raimani Mahali and Lakhindra Mahali on 09.11.2016 lodged an ejahar stating that on the same day itself at around 1:00 pm when they went to the Court of Hon'ble Civil Judge, Tinsukia for mutual settlement of a case between them and a person named Munna, accused persons namely Ilu Das and Ritu Konwar appeared there and threatened informants not to mutually settle the case and

threatened to kill them if the case is compromised. Informants also alleged that after their exit from Judicial Court campus, accused persons followed them and threatened them on the road at Rangagora.

Thus, the above facts and circumstances led to the filing of the instant complaint and set the prosecution case in motion.

2. Based on the ejahar, Tinsukia P.S Case No.1314/2016 u/s 341/506/34 IPC was registered. After completion of investigation, Investigating Officer submitted charge-sheet against accused Ritu Konwar and Ilu Das u/s 341/506/34 for their prosecution under the aforesaid sections of law.
3. Relevant copies of documents were furnished to above mentioned accused persons as per provision of law. Offence u/s 341/506/34 IPC was explained to accused to which accused persons pleaded not guilty and claimed to be tried.
4. In this instant case, 1 (one) prosecution witness (hereinafter referred to as PW) have been examined-in-chief and cross examined by defence.
5. Statement of defence u/s 313 CrPC has been recorded in which accused persons have reiterated that they are innocent and not guilty. Defence did not tender any evidence in its support. I have heard argument advanced by both sides. I have also perused the entire case record.

POINTS FOR DETERMINATION:

6. The points of determinations are as follows:-
 - (i) Whether accused persons on 09.11.2016 in furtherance of their common intention wrongfully restrained the informants and obstructed them from proceeding in any direction and thereby committed an offence u/s 341/34 IPC?
 - (ii) Whether accused persons on 09.11.2016 in furtherance of their common intention caused criminal intimidation to the informants by threatening to kill them and thereby committed an offence u/s 506/34 IPC?

REASONS, DISCUSSIONS & DECISIONS THEREOF:

7. In this instant case, only one witness has been examined. Informant could not be traced out despite Bailable warrant of arrest issued against them. To arrive at a conclusion, I have gone through the evidence on record thoroughly.

PW1/Informant Himashri Deka has deposed in her evidence that she knows accused Ritu Konwar and Ilu Das. PW1 knows the informant Raimoni Mahali and Lakhindra Mahali. PW1 also deposed that the incident occurred in 2016 at around 1pm but she has forgotten the date and she was in court at that time. PW1 deposed that her mother Munna Deka and informant had a civil suit pending in the Court of Civil Judge, Tinsukia, Tinsukia. Informant and mother of PW1 came on the day of incident to compromise the case as it was mutually settled and PW1 also accompanied them. PW1 further deposed that she, informant and her son Lakhinder Mahali and mother of PW1 were sitting on a bench outside the Court of Civil Judge, Tinsukia in the verandah when accused Ritu Konwar and Ilu Das came to them and threatened the informant to not compromise the case with her mother or they will burn the informant. PW1 does not know the reason why the accused persons threatened the informant and she deposed that maybe they had some interest in the land in connection with which the civil suit was pending. PW1 further deposed that she had nothing more to say and nothing was done to her by accused.

In her cross examination, PW1 has deposed that she is an advocate by profession since October, 2015. PW1 enrolled in Tinsukia Bar on 31.12.18. PW1 did not practice in Tinsukia Bar and hence she did not get her enrolled till 31.12.18. PW1 also deposed that there was a Title Appeal 5/15 pending between informant and mother of PW1 and her mother had preferred the appeal. PW1 deposed that the appeal was dismissed. PW1 does not know why the title appeal case was fixed, or for what order it was fixed on the day of incident. In afternoon time there is always a rush in front of the Hon'ble Court of Civil Judge,

Tinsukia. There were 4-5 people present at the time of incident. The peon, Court police, PSO of Hon'ble Civil Judge were not present at the time of incident. PW1 did not come on the day of incident to practice. PW1 came to accompany her mother. PW1 also deposed that she does not remember the date of incident or which day it occurred. PW1 could not depose what Ilu Das and Ritu Konwar were wearing or its colour. PW1 could not depose what informant was wearing or its colour. PW1 deposed that Ritu Konwar and Ilu Das were not party in the title appeal case. Accused persons had an interest in the disputed land as they wanted to purchase it. PW1 has deposed that she did not state before police or submit any document as to what interest accused persons had over the disputed land in connection with which the title appeal was pending. PW1 deposed that in the title appeal case, there was dispute between informant and mother of PW1.

In rest of the evidence, PW1 has denied the suggestions put by defence.

8. The evidence on record is not sufficient to convict the accused persons. Prosecution could not produce the main vital witness which are the informants. Hence, the allegations brought against the accused persons could not be substantiated.
9. It has been held in **Rang Bahadur Singh Vs. State of UP, AIR 2000 SC 1209** that the time-tested rule is that acquittal of a guilty should be preferred to conviction of an innocent person. Unless the prosecution establishes the guilt of the accused beyond reasonable doubt, a conviction cannot be passed on the accused.
10. In light of the discussions made above, the inevitable conclusion, therefore is that prosecution has failed to bring home the charges levelled against the accused beyond the pale of reasonable doubt and accordingly, accused persons are entitled to acquittal.

11. In the result, accused Ritu Konwar and Ilu Das are acquitted from charges u/s 341/506/34 IPC levelled against them and they are set at liberty forthwith.
12. Bail bonds furnished on their behalf shall remain in force for a period of six months.
13. Given under my hand and seal of this Court on this 17th day of May, 2019.
14. Case is disposed off hereby on contest.

(Salma Sultana)
Sub-Divisional Judicial Magistrate,
Tinsukia, Assam

ORDER

Judgment is ready and has been delivered and pronounced in open Court.

Accused Ritu Konwar and Ilu Das are acquitted from charges u/s 341/506/34 IPC levelled against them and they are set at liberty forthwith.

Bail bonds furnished on their behalf shall remain in force for a period of six months.

Given under my hand and seal of this Court on this 17th day of May, 2019.

Case is disposed off hereby on contest.

(Salma Sultana)
Sub-Divisional Judicial Magistrate,
Tinsukia, Assam

APPENDIX

1. PROSECUTION EXHIBIT:

None

2. DEFENCE EXHIBITS:

None

3. PROSECUTION WITNESS:

PW1- Himashri Deka

4. DEFENCE WITNESS:

None

(Salma Sultana)
Sub-Divisional Judicial Magistrate(S),
Tinsukia, Assam