

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA:**  
**TINSUKIA**

**G.R. CASE NO: 150 OF 2016**

**U/ Sec 506/509 OF IPC**

STATE OF ASSAM

..... PROSECUTOR

**-Vs.-**

SRI JITEN DUARAH

S/O: SRI LAKHYA DUARAH

ADDRESS: AKHOIPHUTIA BAROITING GAON

P.S.: SIVSAGAR, DIST: SIVSAGAR, ASSAM

.....ACCUSED

**PRESENT: SALEH AHAMMAD, LL.M. AJS**  
**SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA,**

**TINSUKIA**

FOR THE STATE: Mr. BAPA PURU KASHYTA, LEARNED ASST.PP

FOR THE ACCUSED: Mr. RAKESH GOPE, LEARNED DEFENCE COUNSEL

OFFENCE EXPLAINED ON: 15-10-18

EVIDENCE RECORDED ON: 26-06-19

ARGUMENT HEARD ON: 09-07-19

JUDGMENT DELIVERED ON: 24-07-19

## **JUDGMENT:**

1. The genesis of this case had its roots with the lodging of First Information Report (in short as F.I.R) wherein the informant has alleged that the informant stays at the rented house at Digboi in relation to her job. She lodged a Divorce case against her husband at Sivsagar Court, but the said case was not yet dismissed. But her husband Jiten threatened her with dire consequences over phone. Her husband Jiten also threatened her that she will oust from the rented house by landowner and her husband defamed her character using slang language. Hence, she lodged a case at the police station. The criminal law was set in motion with the lodging of the FIR.
2. In this case the O/C, DIGBOI PS registered as DIGBOI PS case No.41/2016 U/sec 506/509 of IPC and the case was entrusted to S.I ARUN CH GOGOI for investigation and finally after completion of investigation the charge-sheet was submitted by him against the accused person U/sec 506/509 of IPC.
3. In this case the accused person appeared before the court and he was allowed to go on bail by my learned Predecessor and as per section 207 of CrPC & the offences U/sec 506/509 of IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried. In this case the prosecution has adduced as many as two PW'S to prove the case. In this case the statement of the accused person is hereby recorded and his plea is of total denial. The defence does not adduce any DWs from their side.
4. I have heard arguments of the learned defence counsel and the learned Asst. P.P. I have perused the evidence on record and scrutinized the evidence on record.
5. After hearing both sides the following are determined point of determination.

### **POINT OF DETERMINATION**

#### **POINT FOR DETERMINATION NO.1:**

***Whether the accused person had used words or gesture intending to insult and thereby intruded upon the privacy of the informant & thereby committed and offence punishable U/sec 509 of IPC?***

#### **POINT OF DETERMINATION NO.2:**

***Whether the accused person at the same time and place had threatened the informant with dire consequences & thereby committed and offence punishable U/sec 506 of IPC?***

**Discussion, Decision and Reasons there on:**

**For the sake of convenience both the points are clubbed together:**

6. PW1 in her evidence has deposed that she is the informant of this case. She lodged this case against her former husband Jiten Duwarah. She had applied for divorce in the year 2014. Her husband asked her to sign in a blank paper before filing of divorce. Her husband used to consume alcohol. She was staying at the rented house at Jyoti Nagar. Her landlord was Rishi Raj Pradhan. Her former husband Jiten used to threaten her and he used to say "*Rastat Mari Pelai Dim & Gulai Dim*" and he used to tell her landlord on the issue that she should be dragged out of the rented house by her inlaws. She lodged this case because of it. The police recorded her statement. Ext.1 is the FIR and Ext.1(1) is her signature.
7. During cross examination she stated that she did not mention the mobile number in the ejahar. She stated before the police that her former husband said "*Rastat Mari Pelai Dim & Guliai Dim*". She has sought divorce from Jiten. She has lodged many cases against Jiten. She already married with another man. She does not want to proceed with this case. She admitted that if the accused Jiten is acquitted from this case she do not have any objection.
8. PW2 in her evidence has deposed that she know the informant and know the accused if she will see him. She do not know about the occurrence.
9. Her cross examination has been declined by defence side.

***I have heard the arguments of the learned Asst.PP & the learned defence counsel.***

10. From the perusal of the evidence on record, it appears that the complainant did not support the case of prosecution. No independent witnesses were examined by the prosecution side. The informant in her cross examination admitted that she has already married another man and she do not want to proceed with this case and she also admitted that if the accused person is acquitted from this case she has no objection. The prosecution side also examined PW2 but in her evidence she has stated that she does not know about the occurrence. There is no denial of the fact that no such occurrence took place but the informant doesn't want to proceed with this case now.
11. In the light of the above discussion & reasons, I am of the opinion that the prosecution has failed to prove the case against the accused person beyond reasonable doubt. Hence, the accused person deserves to be acquitted of the offences leveled against him.

**ORDER**

*In view of the above discussions and reasons it is held that the prosecution has failed to prove the offences leveled against the accused person & as such the accused person is acquitted of the offences leveled against him under section 506/509 of IPC and he is thereby set at liberty.*

Make necessary entry in the judgment register.

Given under my hand and seal of this court on this the 24<sup>th</sup> day of JULY, 2019 at MARGHERITA COURT.

**SALEH AHAMMAD**

**SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),  
MARGHERITA, TINSUKIA**

**APPENDIX:**

**WITNESSES FROM THE PROSECUTION SIDE:**

PW1: MUNMI CHANGMAI

PW2: SITA PRADHAN

**WITNESSES FROM THE DEFENCE SIDE: NIL**

**PROSECUTION EXHIBITS:**

EXT 1 IS THE FIR

EX1 (1) IS THE SIGNATURE PW-1

**DEFENCE EXHIBITS: NIL**

**SALEH AHAMMAD**

**SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),  
MARGHERITA, TINSUKIA**