

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

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

PRC CASE NO. 381/2019

U/S 354(D) IPC

State of Assam

Vs

Subham Das

..... ACCUSED

Advocate for prosecution: Learned Banti Hazarika

Advocate for defence: Learned S.Buragohain

Charge framed on: 02-07-2019

Date of Evidence: 28-08-2019

Date of Argument: 28-08-2019

Date of Judgment: 28-08-2019

JUDGMENT

1. The prosecution case succinctly is that informant lodged an ejahar on 23.07.2017 alleging that on 21.07.17 at 10:00am accused Subham Das contacted the informant on her mobile phone, her phone no. being 7896273707 from his phone, bearing phone no.7577953720 and called her to the park and attempted to foster personal interaction repeatedly despite a clear indication of disinterest by the informant for which she has suffered mentally.

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, Baghjan P.S Case No. 27/17 u/s 354(D) IPC was registered. After completion of investigation, Investigating Officer submitted charge-sheet against accused person namely Subham Das u/s 354(D) IPC for his prosecution under the aforesaid sections of law.
3. Relevant copies of documents were furnished to above mentioned accused person as per provision of law. Charge u/s 354(D) IPC was framed, read over and explained to accused to which accused person pleaded not guilty and claimed to be tried.
4. In this instant case, 2 (two) prosecution witnesses (hereinafter referred to as PWs) have been examined-in-chief and cross-examined.
5. Statement of defence u/s 313 CrPC has been recorded in which accused have reiterated that he is 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 person on 21.07.17 at 10:00am contacted the informant on her mobile phone, her phone no. being 7896273707 from his phone, bearing phone no.7577953720 and attempted to foster personal interaction repeatedly despite a clear indication of disinterest by the informant and thereby committed an offence u/s 354 (D) of IPC?

REASONS, DISCUSSIONS & DECISIONS THEREOF:

7. **PW1-Informant/victim Smti. Rupali Hazarika** has deposed in her evidence that she does not know the accused person who was present in Court. Although PW1 lodged the ejahar on a misunderstanding, she does not want to proceed with this case.

In her cross examination, PW1 has deposed that she has no complaints against accused person.

PW2- Mridul Hazarika has deposed in his evidence that he does not know the accused person who was present in Court. PW2 deposed that informant is his wife. PW2 also deposed that this case has been lodged by his wife on a misunderstanding and at present informant does not want to proceed with this case.

In his cross examination, PW2 has deposed that he has no complaints against the accused person.

8. On overall perusal of case record, it is found that informant has deposed nothing incriminating against the accused person. As such, there is nothing on record to convict the accused.
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 person is entitled to acquittal.
11. In the result, accused Subham Das is acquitted from charges u/s 354(D) IPC levelled against him and he is set at liberty forthwith.

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

13. Given under my hand and seal of this Court on this 28th day of August, 2019.

14. Case is disposed off hereby.

Dictated and corrected by me:

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

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

Transcribed by

Diganta Dutta (Stenographer)

ORDER

Accused Subham Das is present.

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

Accused Subham Das is acquitted from charges u/s 354(D) IPC levelled against him and he is set at liberty forthwith.

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

Given under my hand and seal of this Court on this 28th day of August, 2019.

Case is disposed off hereby.

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

APPENDIX

1. PROSECUTION EXHIBIT:

Ext.1- Ejahar

2. DEFENCE EXHIBITS:

None

3. PROSECUTION WITNESS:

PW1- Smti. Rupali Hazarika

PW2- Mridul Hazarika

4. DEFENCE WITNESS:

None

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