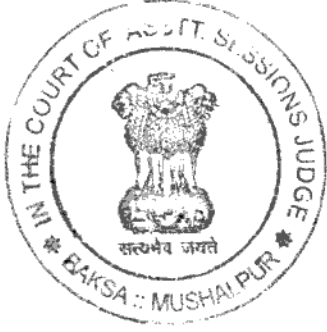


IN THE COURT OF ASSTT. SESSIONS JUDGE ::BAKSA

Present : Himakshi Thakuria Buragohain.
Asstt. Sessions Judge,
Baksa, Mushalpur



SESSIONS CASE NO.: 288/18

U/S 294/341/307/506 IPC

STATE OF ASSAM

-VS-

Naba Das

..... Accused person.

Committed by Learned JMFC, Baksa, vide order dated 26-04-2018 in connection with GR. Case No. : 1058/2018

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APPEARANCE :

Advocate for the prosecution : Mr. Dipmoni Boro,
Ld. Addl. PP.

Advocate for the defence : Mr. N. Rajbongshi

Date of Evidence : 18-12-2021

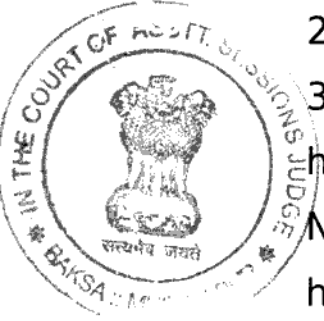
Date of Argument : 23-12-2021

Date of Judgment : 06-01-2022

J U D G M E N T

1. The gist of the prosecution case in brief is that one Sri Dhruba Das lodged an ejahar on 10-02-2018 stating interalia that on 10-02-2018 at about 3.00 p.m while the informant was going from his house towards a shop one local youth namely Naba Das restrained him on the way and abused him with filthy language. Thereafter he stabbed the informant on his chest with a knife as a result of which the informant started bleeding. The informant ran home but the accused chased him and threatened to kill him. Hence, this case.

2. On receipt of the ejahar police registered a case as Simla PS Case No.06/18, u/s 294/341/324/307/506 IPC and started investigation. After completion of investigation the I/O submitted charge sheet against Naba Das u/s 294/341/324/307/506 IPC. Since the offence u/s 307 IPC is exclusively triable by the Court of Sessions, the Ld. JMFC, Baksa committed this case to the court of Hon'ble Sessions Judge, Baksa. On receipt of the committal paper and PRC Case Record, Hon'ble Sessions Judge, Baksa started Sessions case against the accused and thereafter transferred this case to this court for disposal.



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3. After hearing the learned counsels of both sides and on perusal of the case diary, charge was framed against the accused u/s 294/341/307/506 IPC. The charge so framed was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. During trial, prosecution side examined as many as 3(three) witnesses including the informant/ victim to prove the charge against the accused. Accused was examined u/s 313 CrPC. The statement of defence is recorded in a separate sheets. The defence case was of complete denial and the defence side has not adduced any defence evidence.

5. **POINT FOR DETERMINATION**

i) Whether you on or about 10/02/2018 at about 3.00 p.m at Sarna under Simla P.S, committed an obscene act by uttering slang words at the public road to the informant Dhurba Das to the annoyance of others and thereby committed an offence punishable u/s 294 IPC?

ii) Whether you on same day, time, place as above wrongfully restrained the above informant on the public road and thereby committed an offence punishable u/s 341 IPC?

iii) Whether you, on same day, time and place



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as above, did an act of poking a knife on the chest of the above informant with such intention and under such circumstance that if by that act, you had caused death of the above informant you would have been guilty of murder and thereby committed an offence punishable u/s 307 IPC?

iv) Whether you, on same day and place as above, committed criminal intimidation by threatening the above informant with injury to his person with intent to cause him alarm and thereby committed an offence punishable u/s 506 IPC?

DISCUSSION DECISION AND REASONS THEREOF

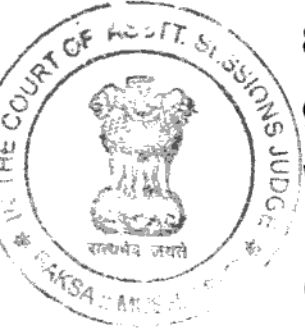
6. I have heard learned counsel for both the parties and have gone through the evidence and materials on record. Learned counsel for the prosecution has submitted that all the witnesses have supported the prosecution story and this is a fit case to convict the accused u/s 294/341/307/506 IPC.

7. On the other hand, learned defence counsel has submitted that prosecution has failed to prove the case. There are discrepancies in the evidence adduced before the court and the statements of the witnesses recorded u/s 161 CrPC. Learned defence counsel has further submitted that



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the victim has nullified the prosecution case and from the evidence of PWs no ingredients of offence is made out against the accused.



8. It is at this stage expedient to cast a glance at the evidences of the prosecution witnesses.

9. In order to determine the actual fact, at first we have to find out whether the informant/victim sustained any injury or not. For this let us go through the evidence of P.W1, Dhruba Das, who is the informant of this case. P.W1 stated that the occurrence took place about 3 years back and at that time he owed Rs.10,000/- to the accused. P.W1 stated that the accused demanded back the said amount from him but he could not pay him back. According to P.W1 on the day of occurrence between 3.30 p.m - 4.00 p.m there was a quarrel between him and the accused regarding the said money in a shop near the house of the accused. In that quarrel both of them pushed each other and fell in the ground. P.W1 stated that he did not sustain any major injury in the said incident.

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10 P.W2, Bhabesh Das, stated in his evidence that about 2 years back he heard some hulla on the road. At that time he was in his house and on

hearing hulla he came towards the road. P.W2 further stated that when he went to the spot he heard from the people that there was a quarrel between Dhruba and accused Naba Das. According to P.W2 he also heard that Dhruba sustained injury in that incident.



11. Coming to the evidence of P.W3, Bichitra Das, we find him stating that about 3 years back he heard from the villagers that there was a quarrel between the informant and the accused and when he went to the spot he saw neither the accused nor the informant.

12. From the evidence of the P.Ws it appears that except P.W1 none of the witnesses were present at the time of occurrence. It is revealed from the evidence of the three P.Ws that there was a quarrel between the accused and the informant at the time of occurrence. It is also revealed from the evidence of P.W1 and P.W2 that in that quarrel the informant sustained injury though according to P.W1 he did not sustain any major injury.

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13. The question now arises as to whether it was the accused who caused the injury upon the informant. It is very clear from the evidence of P.W1 that there was a quarrel between him and the

accused regarding some money in a shop near the house of the accused. It is also stated by P.W1 that in that quarrel both of them pushed each other and fell on the ground. P.W2 also stated that he heard from the people that there was a quarrel between Dhruba and the accused Naba Das. However neither P.W1 nor P.W2 has alleged in their evidence that in the said quarrel accused Naba Das assaulted the informant and caused injury to him. There is also no medical document exhibited by the prosecution to prove the extent of injury sustained by the informant. The evidence of P.W2 and P.W3 are hearsay. Moreover none of them has seen the occurrence. P.W1 has only stated that in the said quarrel both he and the accused pushed each other and fell on the ground. As P.W1 did not describe any circumstances under which he sustained injury, we may assume that he sustained injury in the quarrel by falling over some hard substance on the ground.



14. Considering the evidence and materials available on record it can be inferred that the informant himself sustained injury by accidentally falling on the ground in the quarrel. There being no proper supporting evidence, the prosecution story cannot be relied upon.

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15. Therefore it is found that the accused did not cause any injury to the victim/informant. In view of the above discussion it is held that the prosecution has not been able to prove the charge against the accused, Naba Das. Hence it appears that the ingredients of section 294/341/307/506 IPC are not attracted against the accused person.



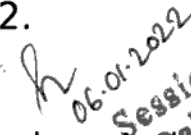
O R D E R

16. From the discussion made above, I find that the prosecution has miserably failed to prove the offence u/s 294/341/307/506 IPC against the accused.

Hence, accused Naba Das is found not guilty and is acquitted from the charge of offence u/s 294/341/307/506 IPC.

Bail bond furnished by the accused shall stand canceled after period of 6 months.

Given under my hand and seal of this court on this the 6th day of January 2022.


 06.01.2022
 Asstt. Sessions Judge,
 Baksa, Mushalpur

Dictated & corrected by me


 06.01.2022
 Asstt. Sessions Judge,
 Baksa, Mushalpur

A P P E N D I X**(A) Prosecution witnesses:**

PW 1 : Dhruva Das (informant),

PW 2 : Bhabesh Das

PW 3 : Smti. Bichitra Das

(B) Prosecution exhibited documents :

Ext.1- Ejahar

Ext.1(1)- Signature of informant.

(C) Defence witnesses : Nil.**(D) Defence exhibited document** : Nil.

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Asstt. Sessions Judge,
Baksa, Mushalpur

