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**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,**  
**BAKSA**

**G.R. Case No. 179 of 2018**

**Under Sections 342, 294, 354 of IPC**

**State**

**Vs.**

**Dilip Kr. Barman and**

**Dilip Kr. Bhattacharjya**

--- Accused persons

Present: Pragyashree Chetia, AJS.

Judicial Magistrate First Class, Baksa

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Evidence recorded on : 28.03.2019, 29.07.2019, 15.11.2019,  
01.02.2020, 18.02.2021, 01.12.2021

Arguments heard on : 06.01.2022, 08.02.2022

Judgment delivered on : 08.02.2022

Appearing for the Prosecution: Sri. Kishor Basnet

Appearing for the Defence : Sri. Tridip Sarma, Sri Mrityunjay  
Mazumdar

**JUDGMENT**

The accused persons namely, **Dilip Kr. Barman(accused no.1) and Dilip Kr. Bhattacharjya(accused no.2)** have been put to trial in the instant case to answer the charges for the offences punishable under Sections 342, 294, 354 IPC.

**BRIEF FACTS**

1. The case of the prosecution in brief is that on 07.01.2017 the informant Krishna Barman filed a FIR in the Barama P.S., Baksa alleging that her father died while in service on 10.06.2015 and since then her family has been facing financial hardships. As such, she applied for appointment in the post of her father on compassionate grounds before accused no.2 BEEO Dilip Kr. Bhattacharjya, Tihu in the year 2016. However, on not getting the response, she filed a writ petition before the Hon'ble Gauhati High Court and it was directed to consider her application. Even when no action was taken, she filed a contempt petition before the Hon'ble Gauhati High Court. On 04.01.2017 at about 12 P.M., she went to the office of BEEO for obtaining accused no. 2's signature on some LIC papers of her father. He called the accused no.1 Headmaster Dilip Kr. Barman and he arrived at about 1:30 P.M. After that they confined her inside the office and accused no. 2 BEEO verbally abused her due to the case filed against him in the Hon'ble Gauhati High

Court. Thereafter, he forcefully took away the LIC papers of her father and he also pulled and pushed her by grabbing her hands. He also threatened her and forcefully took her signature on a blank paper and chased her out of the office room. She further stated that when she was crying outside, the Headmaster came and gave her a photocopy of a paper where it was written that she did not submit any application for any job in the office of the BEEO. She mentioned that as she was undergoing treatment she could not file the FIR on time. Hence, te case.

2. On the basis of the FIR, a case was registered as Barama P.S. Case Number- 05/17 under Sections 342, 294, 354A, 384 IPC. After the completion of the investigation charge sheet along with one seizure list, two notices and one sketch map were submitted by the I.O. SI Narayan Ch. Ray against the accused persons Dilip Kr. Barman and Dilip Kr. Bhattacharjya under Sections 342, 294, 354B, 384 IPC.
3. The accused persons appeared before this court and were released on bail. Copy of relevant documents was furnished to them in accordance with Section 207 Cr.P.C. Upon consideration of relevant documents and hearing both parties, formal charges were framed against the accused persons Dilip Kr. Barman and Dilip Kr. Bhattacharjya u/S 342, 294 and 354 IPC and particulars of offences under the

aforementioned Sections were read over and explained to them to which they pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined 7(seven) witnesses after which the prosecution evidence was closed. The statement of the accused persons u/S 313 Cr.P.C were recorded in separate sheets and tagged along the case record. The accused persons completely denied the entire allegation. Defence did not adduce any evidence.
  
5. Heard the arguments advanced by learned Assistant Public Prosecutor and learned defence counsel and perused the evidence on record.

**POINTS FOR DETERMINATION**

6. Whether the accused persons Dilip Kr. Barman and Dilip Kr. Bhattacharjya, on 04.01.2017, at about 12 P.M., wrongfully confined the informant in the office room of the accused no.2 and thereby, committing an offence under Section 342 IPC?

7. Whether accused persons, on the same day and time, uttered any obscene words in the office of the BEEO which is a public place and thereby, committing an offence under Section 294 IPC?
  
8. Whether accused persons, on the same day and time, used criminal force on the informant with the intent to outrage her modesty and thereby, committing an offence under Section 354 IPC?

### **EVIDENCE OF THE PROSECUTION**

9. The prosecution examined the informant Krishna Barman as P.W.1. In her examination in chief, she deposed that her father worked as at Kharuajan Girls M.E. School and after his sudden demise during the service, she applied for a job before the BEEO on compassionate ground in 2016. She also filed a writ petition and contempt petition against the accused persons before the Hon'ble Gauhati Court. On 04.01.2017, she went to the office of the BEEO at about 12:30 P.M. for obtaining countersign on some LIC papers of her father from accused no.2. However, he refused to sign in absence of the headmaster and asked her to wait outside. After around 90 minutes when the headmaster came, they

called her inside the office room. She further deposed that the accused persons threatened her as to why she filed a case against them in the Hon'ble High Court and also took away the LIC papers. They forcefully took her signature on a blank paper as she refused to sign it and then drove her out of the room. She further deposed that she was crying outside the room and the accused Dilip Kr Barman gave her a photocopy stating that she never applied for any job in the Block Office. Thereafter, she returned home and filed a case on 07.01.2017. She stated that she could not file the FIR on time as she was mentally upset and could not take a decision without the advice of her elders. She identified the FIR as Exhibit 1 and Exhibit 1(1), 1(2), 1(3), 1(4) and 1(5) as her signatures.

10. In her cross examination, she stated that she did not mention in the FIR that as she was mentally upset and could not take a decision without the advice of the elders she could not file the FIR in due time. She further stated that when she went to the office of the BEEO no one else was present there. She denied that she deposed falsely that there was none in the office as it is a government office and apart from the BEEO there were other employees at that time. She further deposed that she entered the room of the BEEO on her own as no one was present to ask for

permission. She stated that after coming out of the chamber of the BEEO she did not report the incidents that had happened to her inside the chamber of the BEEO as she did not find any other person outside. She further stated that her house is located around 3 kms away from the BEEO office and a police station falls on the way but she did not report about it in the police station. She denied that she filed the FIR falsely just to pressurise the accused persons for getting a job. She also denied that prior to the incident on 04.01.2017, she submitted the LIC papers of her father in the office of BEEO for countersign.

11. Amiya Barman, who is the mother of P.W.1, was examined as P.W.2. She narrated about the incident and stated that she was informed about it by PW.1. Put to cross examination, she stated that she did not witness the incident. She denied that she deposed falsely in the court and that she did not depose the police about her entire statement made before the court.
12. The next prosecution witness, P.W.4 Sapna Narzary deposed in her examination in chief that she was working as Grade iv employee at BEEO, Barama. She stated that the occurrence took place in 2016 and she was at the office and the accused persons were also at the office. She further stated that she did not witness any occurrence on the

relevant day. On the next day the police arrived and asked her whether she had any knowledge if the accused persons threatened PW1.

13. In her cross examination, PW.3 stated that she was sitting in the front of the chamber of accused no.2. She usually enters into the chamber whenever he rings the bell. On the day of the occurrence, several public people came to their office for their own business. She further stated that she never saw the informant crying while she came outside from the chamber of the accused BEEO on the day of occurrence. She further stated that she never saw any kind of misdeed committed by the accused persons on that day.

14. P.W.4 Paresh Kalita deposed that PW.1 is his cousin sister. About two years ago he went to the residence of PW.1 and saw police there who interrogated her. He came to know from the conversation that the accused Dilip Kr. Barman and another person forcefully took her signature on a blank paper. In his cross examination, he stated that he had no knowledge about the incident.

15. The next prosecution witness was Ratneswar Barman who was examined as P.W.5. He deposed that PW.1 is his niece and on 04.01.2017 she called him to her residence. When he went, she informed about the entire incident.
  
16. Jitu Brahma was examined by the prosecution as PW.6. He stated that he the informant at their office once. In 2017 she came to their office around 11:30 P.M. and he showed her the room of the accused no.2 as she required his signatures. After that he did not know what happened. In his cross examination he stated that lot of people come to the office and there are other employees in the office.
  
17. The prosecution examined the investigating officer Narayan Ch. Rai as PW.7. He deposed that on 07.01.2017 when the FIR was lodged by Krishna Barman, he was working as an Attached officer at Barama P.S. It was registered it as Barama P.S. Case No. 05/2017 u/S 342, 294, 354A, 384 IPC. He was endorsed to carry out the investigation of the case. He stated that he went to the place of occurrence and prepared a sketch map and examined the informant and witnesses present. As he could not find the accused persons, he issued notice to them and after some days the accused persons appeared. He recorded their statements and

arrested them and were later released on bail. On finding sufficient evidence against the accused persons, he submitted the charge sheet against them u/S 342, 294, 354B, 384 IPC. He identified the sketch map as Ext. 2 and the charge sheet as Ext.3 and Ext. 2(1) and 3(1) as his signatures.

18. In his cross examination he stated that the place of occurrence is nearby Barama P.S. PW.1 did not provide him any medical documents to explain the delay in lodging the FIR.

### **APPRECIATION OF EVIDENCE AND DECISION**

19. I have carefully perused the evidence on record. First of all, PW.2, PW.4 and PW5 are hearsay witnesses. They were told about the incident by PW.1 and did not witness the incident.
20. Now, the office of the BEEO is a public place and during the usual working hours, the office would be busy with people coming for getting their work done. PW.3 and PW.6 were employees of the BEEO office. PW.3 sits in front of the chamber of the accused no.2 but she never saw the informant crying when she came out of the chamber of

accused no.2. PW.6 too was present in the office on that day and he showed her the room of accused no.2. There were other people too who came for their business. Another thing to be noted is that PW.1 stated in her cross examination that she did not report the incident to any other person after she came out as she found nobody there. However, this claim of PW.1 is difficult to accept as the place of occurrence is a public place and other staffs of the office are present. PW.3 who was present outside the chamber of BEEO did not see her crying.

21. There was also a delay of three days in reporting about the incident in the police station. In the FIR PW.1 mentioned that she was undergoing some treatment as the reason for the delay. However, in her deposition she stated that as she was mentally upset she could not take a decision without the advice of her elder.

22. It is also pointed out by the learned advocates of the accused persons that the Barama Police Station is located very near to the place of occurrence, however, PW.1 did not report it to the police authority. Only after a delay of three days the FIR was lodged which consists exaggerations and therefore, it is a concocted and false case. In my view, in

addition to this, since there is also a contradiction about the reason of delay in the statement of PW.1, I find force in the argument.

23. Also, the photocopy of the alleged note on which the signature of PW.1 was alleged to be forcefully taken by the accused persons was not exhibited by the prosecution.
24. Hence, after considering all the details of the evidences, there are contradictions and exaggerations found in the case of the prosecution and therefore, the prosecution has failed to establish the guilt of the accused persons under Sections 342, 294, 354 IPC.

### **ORDER**

Thus, in view of the above discussion it is held the prosecution has failed to prove the allegations against the accused persons Dilip Kr. Barman and Dilip Kr. Bhattacharjya under Sec Sections 342, 294, 354 IPC beyond all reasonable doubt. As such the accused persons are acquitted of the

offences under the above-mentioned Sections and set at liberty forthwith.

Their bail bonds are extended for a period of six months as per Section 437A Cr.P.C.

Seized articles i.e the LIC documents are to be returned to their lawful owner in due course.

The judgment delivered and pronounced by me today in the open court given under my hand and seal of this Court on this 08<sup>th</sup> day of February, 2022.

The entire judgment is typed by me.

Pragyashree Chetia  
JMFC, Baksa, Mushalpur.

**APPENDIX**

**PROSECUTION WITNESSES:**

1. P.W.1: Krishna Barman
2. P.W.2: Amiya Barman
3. P.W.3: Sapna Narzary
4. P.W.4: Paresh Kalita
5. P.W.5: Ratneswar Barman
6. P.W.6: Jitu Brahma
7. P.W.7: SI Narayan Ch. Rai

**DEFENCE WITNESSES:**

None

**PROSECUTION EXHIBITS:**

1. Exhibit 1 : FIR
2. Exhibit 1(1): Signature of P.W.1
3. Exhibit 2: Sketch Map
4. Exhibit 3: Charge sheet
5. Exhibit 2(1), 3(1): Signatures of P.W.7

**DEFENCE EXHIBITS:**

None

**MATERIAL EXHIBITS:**

None

Pragyashree Chetia  
JMFC, Baksa, Mushalpur