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

**P.R.C. No. 887 of 2019**

**Under Sections 294, 323, 448 and 506 of IPC**

**State**

**Vs.**

**1. Bishnu Basumatary,**

**2. Nilamoni Ramchiary and**

**3. Thepra Ramchiary**

--- Accused persons

Present: Pragyashree Chetia, AJS.

Judicial Magistrate First Class, Baksa

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Evidence recorded on : 29.04.2021, 24.09.2021, 17.11.2021,  
22.12.2021

Arguments heard on : 11.03.2022

Judgment delivered on : 11.03.2022

Appearing for the Prosecution: Sri. Kishor Basnet

Appearing for the Defence : Sri. Swamdan Deury

## **JUDGMENT**

1. The accused persons namely, **Bishnu Basumatary, Nilamoni Ramchiary and Thepra Ramchiary** has been put to trial in the instant case to answer the charges for the offences punishable under Sections 294, 323, 448 and 506 IPC.

## **BRIEF FACTS**

2. The case of the prosecution in brief is that the informant Dinesh Haloi lodged a FIR in Barbari Police Station on 24.05.2019, stating, inter alia, that on the same day at about 5:30-6 P.M., he along with one Jayanta Das went to Suwonkhata Chowk to one Pradip Bharali's shop to bring some money which he had to receive. After 30 minutes of reaching the shop, around 6-7 unknown Bodo youths came inside the shop and physically assaulted them and tried to drag them outside the shop to shoot them. However, both of them clung to the almirahs of the shop. After that the youths hit them with the plastic chairs and as a result both of them sustained injuries. Hence, the case.
3. On the basis of the FIR, a case was registered as Barbari P.S. Case Number- 42/19 under Sections 147, 448, 325, 307, 506 IPC. After the completion of the investigation, charge sheet along with one accused verification report and one sketch map, one PR bond, one notice to the accused person were submitted by the I.O. SI Bijay Kr. Das against the accused persons Bishnu Basumatary, Nilamoni

Ramchiary and Thepra Ramchiary under Sections 294, 323, 448, 506 IPC.

4. 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, particulars of offences u/S 294, 323, 448, 506 IPC were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
  
5. During trial, the prosecution examined 7(seven) witnesses after which the prosecution evidence was closed. The statements 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.
  
6. Heard the arguments advanced by learned Assistant Public Prosecutor and learned defence counsel and perused the evidence on record.

**POINTS FOR DETERMINATION**

7. Whether the accused persons Bishnu Basumatary, Nilamoni Ramchiary and Thepra Ramchiary, on 24.05.2019, at about 5:30-6:00 P.M. uttered obscene words to the annoyance of others in a public place and thereby, committing an offence under Section 294 IPC?
8. Whether the accused persons Bishnu Basumatary, Nilamoni Ramchiary and Thepra Ramchiary, on the same date and time voluntarily caused hurt to the informant Dinesh Haloi and victim Jayanta Das and thereby, committing an offence under Section 323 IPC?
9. Whether the accused persons Bishnu Basumatary, Nilamoni Ramchiary and Thepra Ramchiary, on the same date and time voluntarily criminally trespassed the shop of Pradip Bharali and thereby, committing an offence under Section 448 IPC?
10. Whether the accused persons Bishnu Basumatary, Nilamoni Ramchiary and Thepra Ramchiary, on the same date and time,

criminally intimidated the informant Dinesh Haloi and victim Jayanta Das and thereby, committing an offence under Section 323 IPC?

### **DISCUSSION, DECISION AND REASONS THEREOF**

11. First and foremost it needs to be mentioned that P.W.1/informant and P.W.2 are the alleged victims of the case. P.W.1 had alleged in the FIR that some 'unknown' Bodo youths had attacked them in the shop of Pradip Bharali. Even in their testimonies, P.W.1 and P.W.2 stated that in the year 2019 at about 6-6:30 P.M., when they were in the shop of Pradip Bharali in Suwankhata chowk, some 'unknown' persons came and physically assaulted them. Moreover, they stated that they could not identify them and did not know if the accused persons were there at that time. Hence, the identity of the accused persons in connection with the occurrence of the incident is doubtful.
  
12. Now, when we peruse the deposition of Pradip Bharali who was examined as P.W.3, we find that he did not witness any incident. P.W.1 and P.W.2 had stated that they were in the shop of P.W.3 when the alleged incident took place. On the contrary, P.W.3 stated that P.W.1 and P.W.2 came to his shop and informed him about the incident. Therefore, we find a major contradiction between the statements made by the victims and P.W.3 as regards to the place of occurrence of the incident. The allegation that place of occurrence

was the shop of P.W.3 has not at all been supported by P.W.3 himself.

13. The next three witnesses examined were only hearsay witnesses and had no personal knowledge about the incident.

14. M.O. was examined as P.W.7 and he stated that he examined P.W.1 and P.W.2 on 24.05.2019 and found simple injuries on both of their persons.

15. Hence, considering all the details of the evidences in the end it is found that the prosecution has not produced any cogent and reliable evidence to support their case. In addition, the victims themselves could not identify the persons who assaulted them and could not connect the accused persons of this case to be the perpetrators of their incident. Thus, the prosecution has miserably failed to establish the guilt of the accused persons under Sections 294, 323, 448, 506 IPC beyond reasonable doubt.

### **ORDER**

Thus, in view of the above discussion it is held the prosecution has failed to prove the allegations against the accused persons Bishnu Basumatary, Nilamoni Ramchiary and Thepra Ramchiary under Sections 294, 323, 448, 506 IPC beyond all reasonable doubt. As such the accused persons are acquitted of the offence under the above-mentioned Section and are set at liberty forthwith.

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

The judgment delivered and pronounced by me today in the open court given under my hand and seal of this Court on this 11<sup>th</sup> day of March, 2022.

The entire judgment is typed by me.

Pragyashree Chetia  
JMFC, Baksa, Mushalpur.

## **APPENDIX**

### **PROSECUTION WITNESSES:**

1. P.W.1: Dinesh Nath
2. P.W.2: Jayanta Das
3. P.W.3: Pradip Bharali
4. P.W.4: Ganesh Mahato
5. P.W.5: Bhupen Patgiri
6. P.W.6: Bijoy Basumatary
7. P.W.7: Dr. Uday Jyoti Basumatary

### **DEFENCE WITNESSES:**

None

### **PROSECUTION EXHIBITS:**

1. Exhibit 1 : FIR

2. Exhibit 1(1): Signature of P.W.1
3. Exhibit 2, 3: Medical Report
4. Exhibit 2(1), 3(1): Signature of P.W.7

**DEFENCE EXHIBITS:**

None

**MATERIAL EXHIBITS:**

None

Pragyashree Chetia  
JMFC, Baksa, Mushalpur