

IN THE COURT OF THE JUDICIAL MAGISTRATE, 3rd
COURT, DIAMOND HARBOUR

PRESENT: BEJOYITA DE, (J.O. Code- WB01166)
JUDICIAL MAGISTRATE, 3rd COURT,
DIAMOND HARBOUR

G.R. Case No. 615/2022

T.R. No. 1275/22

C.I.S No. 6150/2022

STATE

Vs

Amin Piyada @ Aminuddin
Safiya Piyada @ Abu Supiyan
Sayan Bibi @ Sahanara Piyada
Siful Purkait @ Chaiful

..... ACCD. PERSONS

DATED: 21.03.2023

U/S- 341/325 of IPC

J U D G M E N T

The Prosecution case in brief is that, on 05.03.22, at around 7 am the accused persons had taken away the bricks which are belonged to the complainant party, when the complainant protested against the same, accused persons assaulted her mercilessly.

Being so aggrieved, the de-facto complainant had filed this complaint against the accused persons before the Kulpi P.S. on 05.03.22. Thus, the present case was initiated against the accused persons u/s 341/325/506/34 IPC, being Kulpi P.S. Case no. 62/22 dt. 05.03.22.

Thereafter on 14.06.22, all accused persons surrendered before the Court of Ld. ACJM, Diamond Harbour they were taken into custody and enlarged on bail on the same date.

That the investigating agency after completion of the investigation submitted charge sheet No. 218/22 dated 26.06.22 u/s 341/325/506/34 IPC against 4 accused persons and cognizance was taken on 19.07.22.

On 30.08.22, the case was transferred before this Court for trial and adjudication with 4 accused on Court Bail and case record was placed before this Court on 22.12.22.

The case was taken up for framing of charge u/s. 341/325 IPC on this date. The substance of accusation was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

Thereafter on this date, the Prosecution adduced 1 witness, viz. CSW 1, who is the defacto complainant of this case. He is examined as PW 1 and discharged on this date. Considering the materials on evidence, the Ld. Defense Counsel prayed for closure of evidence, to which Ld. A.P.P. raised no objection. Hence, the Prosecution evidence has been closed on this date.

Thereafter on this date, the examination of the accused persons u/s 313 CrPC has been taken up, wherein the accused persons denied the case of the Prosecution and declined to adduce any evidence in their favour. Thereafter the matter is taken up for argument.

EVIDENCE ADDUCED BY THE PROSECUTION

- PW 1-Hafija Bibi (CSW 1)

POINTS FOR CONSIDERATION

Whether the Prosecution has been able to prove the *charges* beyond reasonable doubt by adducing valid and cogent evidence?

DECISION WITH REASONS

The PW 1 being the defacto complainant of this case stated that during the relevant time, there was a quarrel between her and the accused persons, as such she had filed this case. During her cross-examination, she had admitted of

having no accusation against the accused persons and at present the dispute has been amicably resolved among them. As such the Ld. Defence Counsel has certainly be successful in impeaching the credibility of the Prosecution witness.

Although the accused persons did not adduce any evidence, the perusal of the mode of cross-examination shows that the defence case is denial of the Prosecution case.

The 180 degree somersault of the defacto complainant vis-a-vis the PW1 from the version of her complaint not only questions the credibility of her case, but also brings into question the criminal prosecution initiated by the Prosecution. In the circumstances, it is evident that, the Prosecution has failed to adduce any valid and cogent evidence, so as to entangle the accused persons with the charges slapped against them. Thus, this Court has no hesitation to hold that, the Prosecution has failed to adduce any incriminating material against the accused persons, thereby entitling the latter to a **benefit of doubt** in this regard. It is a settled principle of criminal trial that, *it is better that a 100 guilty person should escape than one innocent person should suffer*. Hence, in the absence of sufficient and cogent evidence in this regard, this Court has no other option, but to absolve the accused persons of all the charges labeled against them.

Hence it is,

ORDERED

that the accused persons viz. **Amin Piyada @ Aminuddin** and **Others** are hereby found not guilty of the charges u/s **341/325** of IPC and thus they are hereby acquitted from this case u/s 248(1) Cr.P.C and also discharged from their respective bail bonds.

BC-I to note in the diary.

D/C by me,

Judicial Magistrate,

3rd Court, Diamond Harbour