

IN THE COURT OF THE JUDICIAL MAGISTRATE
GHATAL, PASCHIM MEDINIPUR.

Present: Debojit Das
Judicial Magistrate,
Ghatal, Paschim Medinipur

GR 821 of 22

R. 1405/22, T.R. 230/23

State

-vs-

Sunil Bag and others

Under Sections 341/323/325/354/34 of the I.P.C.

Date of delivery of judgment 11/4/2023

J U D G M E N T

1. The prosecution case in a nutshell is that the informant Sumitra Dolui lodged a complaint at Ghatal PS on 28/7/22 at about 4:15 hrs stating that on 9/7/22 at about 21:30 hrs while the son of the informant and her two nice were standing near Bhintala at Sultanpur village, the accused persons uttered bad remarks and showed bad gesture to them and outraged modesty of Piyali Karak and Labani Karak and when they protested, the accused persons assaulted her and slapped her and accused Jhuma Bag and Batash Hazra assaulted her son with bamboo stick and broom.
2. Upon receiving the complaint police registered the case as Ghatal PS FIR being no. 272/22 u/s 341/323/325/307/354/34 of the I.P.C. and the police conducted investigation into the matter.
3. On completion of the investigation, the police submitted charge sheet against the four accused under Sections 341/323/325/354/34 of the IPC.
4. Copies of the relevant documents were furnished to the accused persons in accordance with Section 207 Criminal Procedure Code.
5. The charges under Sections 341/323/325/354/34 of the IPC were accordingly, framed, read over and explained to the accused to which the accused pleaded not guilty and claimed to be tried.

6. During trial, the prosecution examined only two witnesses after which the prosecution evidence was closed. The signature of PW1 in the written complaint is marked as Exhibit P1/1, the 164 Cr.P.C. statement of PW2 is marked as Exhibit P2 and her signature therein as Exhibit P2/1.
7. The statement defence of the accused were, accordingly, recorded in separate sheets of paper wherein the accused declined the entire allegations made against the accused. Defence did not adduce any evidence.
8. Upon hearing both the parties and on perusal of the case record, the following points for determination were formulated by this Court:
 - i. Are the accused guilty of the offence punishable under Sections 341/323/325/354/34 of the IPC?
9. I have heard the learned counsel on both sides and have gone through the evidence on records which have been outlined below.

EVIDENCE

10. PW1 deposed that she lodged the complaint because while her son was returning home from fair at about 9:30 pm at night, one heated argument took place between them. She could not recall any other details. She could not recall what was written in the complaint.
11. PW2 deposed that about a year ago when she, her sister and cousin brother were returning home from fair, the accused persons in drunken condition passed indecent remarks towards them. She could not recall what she told the Ld. Magistrate.

APPRECIATION OF EVIDENCE

12. No incriminating material against the accused persons came from the evidence of informant. The evidence of PW2 is vague. She did not disclose what remarks were made by the accused persons. No specific date, time and place of the incident is established by the prosecution. PW1 and PW2 did not say anything regarding assault by the accused persons. It appears there was a dispute

between the complainant party and the accused party which is amicably settled now. The prosecution did not cross-examine the PW1 declaring her hostile. The prosecution did not examine the other witnesses. The prosecution failed to examine the I.O. of the case though his evidence would be formal in nature and not substantive evidence.

13. There is no evidence on record from which it could be established that the accused committed the offence charged with. From the evidence of the witness, nothing has transpired which can prove the prosecution case. The essential ingredients to connect the accused with the offence are punishable under Sections 341/323/325/354/34 of the IPC are very much absent in the present case. The complainant has failed to bring home any iota of evidence that the accused committed the alleged offence. Hence, the accused are entitled to be acquitted of all charges framed against the accused.
14. All the points are thus answered in the negative. As a result, prosecution case fails and the accused merit acquittal.

Hence, it is

ORDERED

15. that all the four charge sheet accused are found not guilty to the charge so framed under Sections 341/323/325/354/34 of the IPC and they are hereby acquitted under section 248 (1) of the Cr.P.C.
16. The accused are on Court bail. Bail bond shall remain in force for the next six months as per the mandate of section 437A Cr.P.C.
17. The judgment is delivered in open Court. Let necessary noting be made in the germane register.
18. Let the soft copy of the judgment be uploaded in the CIS within 48 hours from this day as per Rule 186 A of the Cr. R.O of the Honourable High Court, Calcutta.

19. The victim / Complainant has a right to prefer an appeal under the proviso to section 372 of the Code of Criminal Procedure and if the necessary victim is entitled to avail of free legal assistance through Legal Services Authorities concerned to prefer & prosecute such appeals. Let a copy of this judgment be forwarded to the District Magistrate, Paschim Medinipur & Secretary, DLSA, Paschim Medinipur for due intimation to the victim as defined under section 2(a) of the Code of Criminal Procedure. B.C I and B.C II to comply.

Typed and corrected by me.

Judicial Magistrate,
Ghatal, Paschim Medinipur
JO WB1370