

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

Present: Debojit Das
Judicial Magistrate,
Ghatal, Paschim Medinipur

GR 752 of 20

R. 517/22, T.R. 336/22

CNR NO. WBWMOB 000724 2022

State

-vs-

Safidur Rahaman @ Saphidur @ Safidul Khan and others

Under sections 448/323/324/354/506/34 of the I.P.C.

Date of delivery of judgment 22/7/2022

J U D G M E N T

Fact of the case in brief: -

The prosecution's case in brief is that defacto complainant namely Yunush Ali Khan lodged one written complaint before Ghatal Court against Safidur Rahaman @ Saphidur @ Safidul Khan and others alleging that on 30/11/2019 at about 7 to 7:30 am in morning the accused persons entered into his house and started assaulting him with fists and blows and they were armed with stick, iron rod, Kurul, Katari etc and when his family members namely Sabrati Khan, Sarjina Bibi and Jelekha Bibi tried to rescue him, the accused persons assaulted them also and caused serious injuries to them and outraged modesty of the female family members. They were treated at Medinipur hospital.

One Pradip Kumar Dutta, S.I. of Chandrakona P.S. investigated the matter, recorded the statements of the witnesses u/s 161 Cr.P.C. visited the place of occurrence, collected injury reports and submitted the charge sheet under sections 448/323/324/354/506/34 of the I.P.C. against the accused namely Safidur Rahaman @ Saphidur @ Safidul Khan, Badi Bibi, Hasibul Khan, Riyajul @ Rijaul Khan, Halima Katun, Fatema Khatun, Islam Khan and Manowara Bibi @ Manowara. Thereafter cognizance was taken and charge was framed under the said section to which the accused pleaded not guilty and claimed to be tried. Hence, trial.

Evidence Adduced: -

To prove the prosecution's case, the prosecution examined the following witnesses: -

1. Yunush Ali – PW1
2. Sarjina Bibi – PW2
3. Israil Khan – PW3
4. Sabarati Khan – PW4

The accused were examined u/s 313 Cr.P.C to which they pleaded their innocence and did not adduce any evidence on their behalf. Thereafter, heard the argument of both sides.

Points for Consideration

- a) Has the prosecution been able to prove its case against the accused beyond reasonable doubt?
- b) Are the accused guilty of committing the offence punishable under sections 448/323/324/354/506/34 of the I.P.C.?

Decisions with reasons

PW1 deposed that he lodged the complaint against the accused persons due to land dispute. He could not recall anything else. During cross-examination he could not recall about the content of the written complaint.

PW2 to PW4 denied having any personal knowledge of the incident.

From the evidence on record, no incriminating material has come before this Court against the accused. The written complaint was not proved by the prosecution. Defacto complainant failed to recall the content of the written complaint. The other prosecution witnesses who are the family members of PW1 denied having any knowledge of the incident. The prosecution failed to bring any other witnesses and failed to examine the I.O. of the case. There is no evidence to establish that the accused persons assaulted PW1 and his family members resulting serious injuries to them. In view of the above discussion, this Court holds that the prosecution has failed to prove the charges against the accused not to speak of beyond reasonable doubt. All the points are decided in negative. In the result prosecution case fails and the accused is entitled to be acquitted.

Hence, it is

ORDERED

that the accused namely Safidur Rahaman @ Saphidur @ Safidul Khan, Badi Bibi, Hasibul Khan, Riyajul @ Rijaul Khan, Halima Katun, Fatema Khatun, Islam Khan and Manowara Bibi @ Manowara are found **not guilty** to the charge under sections 448/323/324/354/506/34 of the I.P.C. and they are hereby acquitted under section 248 (1) of the Cr.P.C. They are on Court bail. They be discharged forthwith from their respective bail bond and set at liberty at once.

The victim/defacto complainant has right to prefer an appeal under the provision of Cr.P.C. and if necessary, to avail free legal assistance through the legal services authorities concerned to prefer and prosecute such appeal. Let a copy of this judgment be forwarded to District Magistrate and DLSA concerned for due intimation to the victim/defacto complainant.

Inform all concerned. Note in the relevant register.

Typed and corrected by me.

Judicial Magistrate,
Ghatal, Paschim Medinipur
JO WB1370