

*THE COURT OF CHIEF JUDICIAL MAGISTRATE,*  
*UDALGURI, ASSAM.*

**G.R. CASE NO. 630 of 2015**  
**(U/S- 341/294/323 IPC)**

*STATE*

*-VS-*

*SMT. SHEWTI CHOUHAN*

*Resident of Village- Bholabari Bagisa*  
*PS- Kalaigaon*  
*Dist. Udalguri, Assam.*

*-----Accused person.*

*Present: Shri Gitali Rabha, A. J. S.*

*Advocate for the Prosecution : Mr. A. Basumatary*

*Advocate for the Defence : Mr. M. C. Narzary.*

**Evidence recorded on : 08-03-16, 29-06-16, 16-05-17,  
and 30-08-2017.**

**Argument heard on : 11-01-2018**

**Judgment delivered on : 06-02-2018.**

**J U D G M E N T**

1. The prosecution case, in brief is that, informant Sri Manjan Chouhan lodged the written F.I.R. on 23-06-2015 stating that on that day at about 6-30 PM in the evening, when his wife Smt. Kanan Chouhan went to purchase a match box from the Bholabari Chowk, the accused Smt. Shewti Chouhan had wrongfully restrained her on her way, scolded her in slang language, caught hold of her by her hair, assaulted her right and left and tried to strangulate her with an intent to kill her. It was further reported that when she raised hulla, then he along with nearby people rescued her from the hand of accused and sent to Kalaigaon State Dispensary by 108 vehicle. Then the victim was referred to Mangaldai Civil Hospital. Hence this case.
2. After receiving the aforesaid ejahar, the Officer-in-Charge of Kalaigaon Police Station registered Kalaigaon PS case vide no. 120 of 2015 u/S 341/294/325/307 IPC. Investigating Officer investigated the case, recorded the statement of witnesses, collected the medical report of the victim, prepared the sketch map and after completing the formalities, submitted the charge-sheet against the accused Krishna Sen u/S 341/294/323/307 IPC vide charge-sheet no. 62 of 2015 dated 30-06-2015.
3. On the basis of the charge-sheet, cognizance of offence was taken under Section **190 (1)(b)** of the Cr.PC. Then necessary processes were issued for causing appearance of the accused before the court. Accordingly the accused appeared. The copies of relevant documents were furnished to the accused person. The case was charge-sheeted u/S 341/294/323/307 IPC and since Section 307 IPC was triable by the Court of Sessions, hence the case was committed to the Court of Sessions Judge, Udalguri vide order dated 29-10-2015. But the learned Assistant Sessions Judge, Udalguri vide order dated 21-12-2015 returned the case record to this Court stating that there is no material u/S 307 IPC against the accused and hence the offence are of summons procedure nature. Accordingly the particulars of offence u/S 341, 294 and 323 IPC was read over and explained to the accused to which she pleaded not guilty and claimed to be tried.
4. During trial the prosecution had examined as many as seven(7) PWs. I/O and

M/O were also examined to establish the case against the accused. Statement of defence of the accused was recorded u/S 313 Cr.P.C. wherein she had denied the prosecution case totally. No witness been examined by the defence. Argument had been heard from both sides.

5. I have considered the evidence on record, statement of defence recorded u/S 313 CrPC of the accused and the arguments advanced. For the purpose of clarity, the following points for determination is hereby framed:

6. **POINTS FOR DETERMINATION OF THE CASE:** **(I)** Whether on 23-06-2015 at about 6-30 PM, the accused person had wrongfully restrained the victim Smt. Kanan Chouhan on her way and thereby committed the offence punishable u/S 341 IPC? **(II)** Whether on the same day, time and place the accused person had uttered and scolded the victim in indecent words and thereby committed the offence punishable u/S 294 IPC? **(III)** Whether on the same day, time and place the accused person had voluntarily caused injury to the victim Smt. Kanan Chouhan and thereby committed the offence punishable u/S 323 IPC?

7. **DISCUSSION, DECISION AND REASONS FOR THE DECISION:** The prosecution had examined as many as seven(7) witnesses:

PW 1 Sri Manjan Chouhan (informant)

PW 2 Sri Sajal Debnath

PW 3 Sri Sukla Chouhan

PW 4 Sri Ramesh Debnath

PW 5 I/O SI Daneswar Deka

PW 6 Dr. Gopinath Borah and

PW 7 Smt. Kanan Chouhan.

8. Let me start with the deposition of PW 9 Dr. Gopinath Borah. The doctor had stated in his deposition that he had examined the victim Kanan Chouhan on being admitted as an in-door patient by the Police and on examination he found the following injuries:

- (I) Tenderness over back of scalp, radish towards surface region;
- (II) City scan was done and found normal; and
- (III) Pain inside throat with swelling.

9. The doctor opined that the injuries were simple, caused by blunt object. The patient was referred to ENT. He had exhibited his medical report as Ext. 4 and his signature as Ext. 4(1). The defence has not been able to shake the testimony of the doctor on any material point inspite of cross examining him at length. The limited question that remains to be answered is as to who is/are the author (s) of the injuries so inflicted.
10. The informant of the case, PW 1 Sri Manjan Chouhan, who has set the criminal case in motion, had stated in his deposition that on the day of occurrence at about 7-00 PM his wife and the accused went to purchase match box. He testified that, he was standing near the place of occurrence and when he heard shouts from the road side, he immediately went there and saw that the accused had caught his wife, dragged her by her hair and assaulted her with fist and punch, pulled her and threw her on the ground. He further testified that as a result of such assault, his wife sustained injury on her body and she was admitted at Kalaigaon hospital and then referred to Mangaldai Civil Hospital. PW 1 further stated that the victim Kanan Chouhan had sustained injury on her head, chest and back and due to a cut injury on her head, city scan of brain was also done. PW 1 had exhibited his FIR as Ext. 1.
11. During cross-examination the PW 1 remain consistent and stated that he had seen the accused Shewti Chouhan assaulting his wife Kanan Chouhan by pulling her hair and knocking her head and causing injury. He further stated that Public tried to stop the accused. He had admitted that the accused had also filed a case against himself and his wife.
12. PW 2 Sri Sajal Debnath had stated that on the day of occurrence both the

victim and the accused started quarreling. He testified that one Gautam Debnath, informed him and when he reached the place of occurrence, he saw his sister Kanak Chouhan was lying in unconscious state, with injury on her head, chest and back. Immediately she was taken to Kalaigaon hospital and then she was referred to Mangaldai Civil Hospital.

13. During cross-examination PW 2 had stated that when he reached the place of occurrence, accused had already left the spot. He admitted that accused Sewti Chouhan had also filed a case against the victim and her husband.
14. PW 3 Sri Sukla Chouhan had stated that on the day of occurrence he saw two ladies were quarreling with each other, he testified that he saw the accused was assaulting the victim with fist and punch, so he immediately informed the family member of victim and then took the victim Kanan Chouhan to Kalaigaon hospital.
15. During cross-examination PW 3 had stated that none of the ladies were armed, and both the ladies were pulling hairs of each other and assaulting with fist. He had informed Manjan Chouhan, the husband of victim about the incident. He further testified that he had not seen any injury on the body of the accused.
16. PW 4 Sri Ramesh Debnath and corroborated with PW 3 and stated that on the day of occurrence he saw two ladies were quarreling with each other, he testified that he saw the accused was assaulting the victim with fist and punch, so he immediately informed the family member of victim and then took the victim Kanan Chouhan to Kalaigaon hospital.
17. During cross-examination PW 4 had stated that he was ignorant about the cause of their quarrel. He remain consistent that he had informed the brother of victim Sajal Debnath about the incident of assault to his sister. He (PW 4) stated that he did not return back to the spot.
18. PW 5 the I/O of this case SI Daneswar Deka had stated that he had

investigated the case, visited the place of occurrence, recorded the statement of witnesses, collected the medical report, accused was sent to judicial custody and after completion of investigation, submitted the charge-sheet against the accused.

19. The most vital witness in this case, is PW 7, the victim of the case Smt. Kanan Chouhan. She had stated in her deposition that the accused Shewti chouhan met her on the way and started to quarrel with her. She further testified that the accused had caught her, dragged her by her hair and assaulted her with fist and punch, pulled her and threw her on the ground. She further testified that as a result of such assault, she had sustained injury on her head, chest and back on her body and she was admitted at Kalaigaon hospital and then referred to Mangaldai Civil Hospital.
20. During cross-examination the defence side could not rebut the evidence of victim on vital points.
21. Considered the evidence on record and argument submitted by both sides. I am of opinion that all the independent witnesses PW-2, PW-3, PW-4 PW-5 and PW-6 are believable witnesses and they had not added any colors. Further defence could not show any grounds to disbelieve these independent witnesses.
22. Now, taking up the argument of defence side that a cross-case has been filed by the accused against the victim and PW-1, regarding the same incident and so the witness PW-1 and victim are tainted, I am of opinion that there is no such strait jacket rule that when cross-case is filed, the evidence of the victim becomes doubtful and tainted. The evidence of the victim , at the most has to be read with precaution and otherwise if, the evidence of victim is consistent and corroborated by the independent witnesses, the evidence of victim has be relied upon as trustworthy.

23. Value of the deposition of the injured: The victim Kanan Chouhan has no personal enmity with the accused person, so there is no reason as to why she would falsely implicate the accused in this case. The victim received injuries on her person which stands proved through the testimony of the doctor. As per medical report, the injuries of the victim were spread all over the body from forehead, to arms, and neck, in that background, the deposition of victim Kanan Chouhan(PW7), that accused had chased and assaulted her on the road, then she chased her inside the shop and tried to strangulate her was confirmed and corroborated by the documentary evidence. The defence has not been able to shake this point on any material point except pointing out that both the parties had done marpit and a cross case has been filed. The testimony of the injured, it is settled law has to be given very high weightage.
24. The victim Kanan Chouhan has remain consistent that the accused Shewti Chouhan had assaulted her and caused injury on her body, and defence side failed to rebut this vital point. Couple with that all the independent witnesses PW-2, PW-3 PW-4 and PW-5 had corroborated with PW-1 and PW-7, and stated that they had witness the accused assaulting PW-7 on the road, in public place. I found all the witnesses are trustworthy and consistent. In view of above discussion, I hold that the prosecution had successfully proved the offence under section 341, 294 and 323 IPC, against the accused Shewti Chouhan and hence she stands convicted under sec 341, 294 and 323 IPC.
25. Considered the prayer of probation. I am of opinion since the nature of offence is minor and there is no other criminal record against the accused, so I deem it fit to release her on probation. In the facts of the present case, I hereby suspend the sentence and direct that convict Shewti Chouhan, shall furnish a bond that she would maintain peace and good behavior for 1 year from today, the convict be released. The convict is further directed to pay a compensation of Rs. 5000/ ( Rupees five thousand) only within 1 month from today, under section 5 of Probation of Offenders Act.

**O R D E R**

The prosecution had successfully proved the offence under section 341, 294 and 323 IPC, against the accused Shewti Chouhan. She stands convicted under Section 341, 294 and 323 IPC.

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The compensation amount, if recovered, shall be paid to the victim.

Furnish a free copy to the convict.

Supply a copy of the judgment to the Probation Officer, Udalguri.

The judgment is given under the hand and seal of this Court on this 6<sup>th</sup> day of February, 2018.

**Dictated and corrected by me:**

**(G. Rabha)**  
Chief Judicial Magistrate.  
Udalguri, Assam.

**(G. Rabha)**  
Chief Judicial Magistrate  
Udalguri, Assam.

**APPENDIX**

- A. Prosecution witnesses : PW 1 Sri Manjan Chouhan (informant)  
PW 2 Sri Sajal Debnath  
PW 3 Sri Sukla Chouhan  
PW 4 Sri Ramesh Debnath  
PW 5 I/O SI Daneswar Deka  
PW 6 Dr. Gopinath Borah and  
PW 7 Smt. Kanan Chouhan.
- B. Defence witness : Nil.
- C. Documents exhibited : Ext. 1 – FIR.  
Ext. 2 – Medical Report  
Ext. 2 – Sketch map  
Ext. 3 – Charge-sheet.

Chief Judicial Magistrate  
Udalguri, Assam.

Typed and transcribed by me:

(Tulashi Dev Sarma/Steno)