

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

**G.R. CASE NO. 827 of 2018  
(PRC NO. 198/2019)**

**Present: Sri Mridul Kumar Saikia.  
Chief Judicial Magistrate,  
Udalguri, BTAD, Assam.**

**STATE**

**-VS-**

**SRI JAYANTA KUMAR BHATTACHARYA**

**..... Accused.**

**For the Prosecution : Mr. M. Khakhlari, Learned. Addl. P.P.**

**For the Defence : Mr. Rameswar Das, Learned Advocate.**

**Date of Evidence recorded : 31-07-19 and 14-08-2019.**

**Date of Argument & Judgment : 22-08-2019.**

**U/S 294/507 I.P.C.**

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

1. The prosecution case, in brief, is that the complainant Sri Ratan Moni Kumar, Junior Manager of Tangla Electric Sub-Division, APDCL filed a complaint petition before his superior authority to the Sub-Divisional Engineer, Tangla Electric Sub-Division, APDCL, Tangla on 16-08-2018 stating inter-alia that on 14-08-2018 at about 7 P.M., while he was on duty, the accused from his mobile bearing no. 9859093832 misbehaved him over his mobile phone bearing no. 8638214996 using obscene words. He also enclosed one audio CD along with the petition.
2. On receipt of the complaint petition, the Sub-Divisional Engineer, Tangla Electric Sub-Division, APDCL, Tangla forwarded the same to the Officer-in-

Charge of Tangla Police Station treating as ejahar and on receipt of the same to the effect aforesaid, the Officer-in-Charge of Tangla Police Station registered Tangla PS case no. 131/18 U/S 294/507 I.P.C. and on completion of investigation, the I/O submitted the charge-sheet against accused Sri Jayanta Kumar Bhattacharya alleging commission of offences U/S 294/507 IPC.

3. Cognizance of offence was taken under Section **190 (1)(b)** of the Cr.P.C. The processes were issued for causing appearance of the accused before the Court. Accordingly, the accused appeared before this court to answer the charge leveled against him and then he was furnished with copies of all relevant papers and documents in compliance with the provisions of Sec. 207 Cr.P.C. Finding a prima-facie case for commission of offences U/S 294/507 I.P.C. the particulars of offences U/S 294/507 I.P.C. were explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
5. In order to bring home the charge, the prosecution has examined as many as four (4) prosecution witness in the form of

PW 1 – Sri Ratan Moni Kumar(complainant)

PW 2 – Sri Nabin Chandra Boro

PW 3 – Sri Elison Boro and

PW 4 – Sri Sarat Nath.

The prosecution has exhibited the following documents:

Ext. 1 – Ejahar.

Ext. 2 – Seizure list.

6. After recording the prosecution witnesses, the accused was examined U/S 313 Cr.P.C. All the incriminating circumstances which appeared in evidence against the accused were put to him for his explanation. The accused denied all the circumstances and pleaded his innocence. Further, the accused declined to adduce any evidence in defence.
7. I have heard the argument put forward by the learned Addl.P.P. and the learned advocate appearing for the accused. I have also carefully gone through the entire evidence available with the case record.

8. **POINTS FOR DETERMINATION:** To ascertain the guilt of the accused on the charges leveled against her, the following points are sorted out for decision in the present case:

- (i) Whether on 14-08-2018 at about 7 P.M. at APDCL, Tangla under Tangla Police Station to the annoyance of the complainant Sri Ratan Moni Kumar, the accused made telephonic conversation wherein he abused him using indecent words?
- (ii) Whether on the same day at the same time and place the accused committed criminal intimidation to the complainant by an anonymous communication?

**DISCUSSION, DECISION AND REASONS THEREOF :**

- 9. To decide the above points, let us make a scrutiny of the evidence led by the prosecution in support of its case. P.W.1 Sri Ratan Moni Kumar, Junior Manager, APDCL(LAR), Tangla is the complainant of the case. He has stated that on 14-08-2018 at about 7 P.M. due to some inconveniences of electricity, he disconnected the current supply at Tangla Town to which the accused threatened him over phone. Hence, he informed the matter through a complaint petition to his superior authority which was send to Police Station by his superior. He has proved the Ejahar Ext. 1, Seizure list Ext. 2 by identifying his signatures Ext. 1(1) & Ext. 2(1), 2(2) thereon. During investigation, police recorded his statement and the recording of threatening of accused was submitted to police which police seized that by preparing a CD. He has proved the M. Ext. 'A' the said CD.
- 10. In cross-examination PW 1 stated that he did not file any ejahar at police station. On 15-08-2018 he himself filed the petition. The relevant CD was prepared on 15-08-2018 at their office. He visited the police station after one day of occurrence. He denied that on 14-08-2018 at about 7-30 PM he had tea with the accused. He also denied that at that time he made phone call to the accused from the ongoing programme on 'martyrs day' at Tangla demanding Rs. 5000/- from him and supplied the electric current wherein the accused did not pay him the demanded money after incessant demand and hence he informed the matter to his superior authority and filed this case

falsely against the accused. He denied that the CD was prepared with the help of his office staff and the voice in the CD was not of the accused. At the time of occurrence he was not busy in any emergency work.

11. PW 2 Sri Nabin Chandra Boro, Engineer, APDCL, Udalguri stated in his deposition that on 14-08-2018 he was informed in writing by the complainant that due to interruption of current supply at the programme going on "Martyrs Day" at Tangla, the accused had an altercation with him to which he forwarded the complaint petition to the police station. He has proved Ext. 1 the complaint petition and Ext. 2 the seizure list by identifying his signatures Ext. 1(2) & Ext. 2(3) thereon. The Material Ext. A the CD which he did not see in the court.
12. In cross-examination PW 2 stated that he had not mentioned on which date he forwarded the complaint petition to the police station. He did not inform the matter to his superior authority. He forwarded the same to the police station as per his government official capacity and for the same he did not take any permission from his superior authority. The M. Ext. A was seized by police at police station from the complainant where no other witnesses were present there. Before filing the complaint petition, the complainant took advice from him. The CD was prepared as per direction of police. He could not say where the complainant prepared the CD. He did not heard any conversation between the accused and the complainant. He denied that the accused did not misbehave the complainant and filed this false case against him. He also denied that they demanded Rs. 5000/- from the "Martyrs Day Celebration Committee" and when the committee did not pay the same amount, they had filed this case falsely against the accused as revenge.
13. PW 3 Sri Elison Boro and PW 4 Sri Sarat Nath have stated that on 15-08-2018 they came to know from the complainant that the accused threatened him over phone using obscene words and hence the complainant filed this case. Except that, they are mum.
14. In cross-examination, both these PWs have stated that they are ignorant about any obscene words used by the accused.
15. Out of four prosecution witnesses PW 1 & PW 2 are official witnesses and the remaining PW 3 & PW 4 are the independent witnesses. What appears from the version of the complainant, who is the most vital witness of the case, is that the instant case arose out of an altercation through telephonic

conversation between the accused and the complainant. The allegation that the complainant being an officer of respective electric power supply department got the threatening from the accused on the eve of "Martyrs Day", celebrated at Tangla town while the supply of electric current got interrupted is not acceptable inasmuch as the call lists of the parties were not verified, the SIM cards of the parties were not seized, and the CD prepared by the complainant himself was not sent for FSL. Moreover, the obscene word uttered by the accused is also not supported by any independent witnesses as they are only hearsay witnesses. . The defence has raised the point that the date of filing the ejahar and the date of occurrence is not corroborated with the version of the complainant and the cause of the delay in filing the same was not mentioned thereon. The versions of the PWs failed to draw the attention of the court to find out whether actually the accused threatened and committed criminal intimidation to the complainant through mobile communication.

16. Thus, from the above appraisal, appreciation of evidence on record, and the application of law, I find that the prosecution has failed to establish the offences U/S 294/507 I.P.C. against the accused beyond all reasonable doubt. In the result, the accused is found not guilty U/S 294/507 I.P.C. Hence, the accused Sri Jayanta Kumar Bhattacharya is acquitted from the charges U/S 294/507 I.P.C. and he is set at liberty forthwith.
17. The bail bond shall remain in force for the next six months as per provisions of Section 437(A) Cr.PC.

Given under my hand and seal of this court on this 22<sup>nd</sup> day of August, 2019 at Udalguri, BTAD, Assam.

**Dictated and corrected by me:**

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate  
Udalguri, BTAD, Assam.

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate.  
Udalguri, BTAD, Assam.

**APPENDIX**

- A. Prosecution witnesses : PW 1 – Sri Ratan Moni Kumar(complainant)  
PW 2 – Sri Nabin Chandra Boro  
PW 3 – Sri Elison Boro and  
PW 4 – Sri Sarat Nath.
- B. Defence witness : Nil
- C. Documents exhibited : Ext. 1 – Ejahar.  
Ext. 2 – Seizure list.

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate  
Udalguri, BTAD, Assam.

Transcribed and typed by me:

(T. D. Sarma/Stenographer).