

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

**G.R. CASE NO. 920 of 2019  
(PRC NO. 1061/2019)**

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

**STATE**

**-VS-**

**SRI BAL BH. BISTA.**

**.....Accused.**

**For the Prosecution : Mr. M. Khaklary, Learned Addl. PP.**

**For the Defence : Miss Newthon Sona Daimary,  
Mr. Ranendra Basumatary, Advocates.**

**Date of prosecution evidence : 09-12-19, 23-12-2019 and  
10-01-2020.**

**Date of argument & Judgment : 05-03-2020.**

**U/S- 447/294/506 I.P.C.**

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

1. The prosecution case, in brief, is that on pretext of failing to give birth to male child, the husband of the complainant got furious and started to misbehave her both physically and mentally. Being disappointed she took shelter at her sister's house. While she was taking shelter at her sister's house, on 09-09-2019, her husband went to their house armed with a 'khukuri' in his hand and on being seen his aggressive mood with intent to assault her, as soon as she tried to flee from the place of occurrence, the accused gave a stab blow with the 'dao' in his hand which hit on the door of the house for which she was saved. Hence, informing about the occurrence, the complainant Smt. Ranjana Devi lodged the ejarah on 01-09-2019 before the Officer-in-Charge, Udalguri Police Station with prayer for taking necessary action.

2. After receiving the ejahar to the effect aforesaid, the Officer-in-Charge of Udalguri Police Station registered Udalguri P.S. case no. 174/2019 U/S 294/498(A)/307/506 I.P.C. and on completion of investigation the I.O. submitted charge-sheet against the accused Sri Bal Bahadur Bista alleging commission of the offences U/S 447/294/506 I.P.C.
3. On the basis of the charge sheet, cognizance of offence was taken under Section **190 (1)(b)** of the Cr.PC. Necessary processes were issued for causing appearance of the accused before the court. Accordingly the accused appeared before the Court to answer the charges levelled against him. Necessary copies of all relevant papers and documents were furnished to the accused in compliance with the provisions of Section 207 CrPC. Finding a prima-facie case for commission of offences, the particulars of offences U/S 447/294/506 I.P.C. were explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
4. In order to bring home the charges, the prosecution examined as many as four(4) prosecution witnesses including the complainant as follows:
  - PW 1 – Mrs. Ranjana Devi
  - PW 2 – Mr. Mon Bahadur Chetri
  - PW 3 – Mr. Kumar Subedi &
  - PW 4 – Mrs. Menoka Devi.
5. 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.
6. I have heard the argument put forward by the learned Additional P.P. and the learned advocates appearing for the accused. I have also carefully gone through the entire evidence available with the case record.
7. **POINTS FOR DETERMINATION :** To ascertain the guilt of the accused person on the charges levelled against him, the following points are sorted out for the decision:

- I.** Whether on 09-09-2019 at about 8-30 P.M. at village Rangamakha under Udalguri PS, the accused criminally trespassed inside the house of Smt. Menoka Devi?
- II.** Whether on the same day, time and place the accused abused the complainant uttering obscene words?
- III.** Whether on the same day, time and place the accused committed criminal intimidation by threatening the complainant with dire consequences?

**DISCUSSION, DECISION AND REASONS THEREOF:**

8. To decide the above points, let us scrutinize the evidence led by the prosecution in support of its case. PW-1 Mrs. Ranjana Devi is the complainant. She has deposed that accused is her husband and in the year 2007 they got married and from their wedlock, two female children were born. Presently, the ages of their daughters are 10 & 9 years respectively. She has stated that, as no male child was born to them, so, about five years ago, her husband used to torture her. Though many a times, her husband used to deport her out of the house, but still she used to come back and try to reconstitute their conjugal lives. In the month of February, her husband again drove her from his house for which she filed a divorce case in the court and during the pendency of the case, on 09-09-2019 as fixed date, both she and her husband appeared before the court and due to misbehavior of the accused, the court got him out from the court dock. He got ashamed with the act of the court and hence, on that night at about 8-30 P.M. he went to the house of her sister where she was taking shelter and asked to open the door of her house. As soon as she opened the door, the accused forcibly entered inside the room and gave a blow by the knife in his hand for which she immediately ran to the betel nut garden and saved her life. Her sister made hue & cry for which the neighboring people came to the place of occurrence and the accused went away. The accused left the place of occurrence by threatening her and hence she lodged the case against him. She has proved her ejahar Ext. 1 by identifying her signature Ext. 1(1) thereon.

9. In cross-examination, PW 1 stated that both her daughters were living with her husband. Since her daughters are school going students, she does not intend to take them with her. She left her matrimonial house from the date of her driving out by the accused on 11-02-2019. She stated before police that the accused committed torture on her alleging that she had illegal relationship with one Tag Bahadur Bhojel of their village. She did not call any village meeting regarding the matter. For about three months her husband worked at Bangalore and during that period she opened a 'pan' shop to earn her livelihood. She denied that on 10-02-2019 the accused saw her with said Tag Bahadur Bhojel in compromising state and in the village meeting she along with Tag Bahadur Bhojel had pleaded guilty. Her husband allowed her to go with him and kept her with him in his house. She knows that Tag Bahadur Bhojel works at Gauhati High Court, but she is not aware about the place where he resides. She is not aware about sending of any written document to Tag Bahadur Bhojel by the Gorkha Student Union along with their village gaonburha alleging commission of offence by him. Her husband filed a case against Tag Bahadur Bhojel and herself alleging commission of theft of money by them from him. She is aware about the filing of a case by Tag Bahadur Bhojel against some persons of her village. She denied that regarding these acts, her brother restrained her from visiting her paternal house. On the day of occurrence at about 8-30 P.M. the accused went to the house of her sister where they were sitting inside the house after having their dinner. She saw the accused after hearing the screaming outside the house. She denied some suggestions put to her by defence.
10. PW 2 Mon Bahadur Chetri stated in his deposition that about six (6) months ago, one evening at about 7 PM, the complainant came to his house and informed that, her husband came to the place of her sister's house where she was staying and tried to cut her. He has stated that as soon as he heard about it, he went to the house of Ranjana's sister but he did not see the accused there. He stated that he has not seen any incident.
11. In cross-examination, PW 2 stated that when he visited the place of occurrence, he neither saw the accused there nor saw any "Khukur" cut stain in front of the door of the house.
12. PW 3 Kumar Subedi deposed that six months ago, one night at about 8 PM, the accused went to the house of his brother Ram Baharu Chetry, and intended

to assault the complainant who was taking shelter there. After hearing the hue & cry, she immediately went to the house of his brother and intercepted the accused from assaulting to his wife. Thereafter, on gathering the local people, he left the place of occurrence.

13. In cross-examination, PW 3 stated that the house of Meneko Devi's husband Ram Bahadur Chetry was adjacent to her house. She has denied the fact that in her statement she stated before police that she did not meet the husband of the complainant at the house of her brother. She has also denied the fact that she saw the 'khukuri' in the hand of the accused. She met Monika Devi and Ranjana Devi in the varanda of the house. She also denied some suggestions put to her by the defence.
14. PW 4 Smt. Menoka Devi stated in her deposition that the accused is her brother-in-law. Last year, in the month of September, one day at about 8-30 P.M. the accused came to their house armed with a 'dao'. At the time of occurrence the complainant was in their house. Being seen the accused armed with a 'dao' she got scared and escaped from the scene. The accused left their house when the neighboring people came to their house.
15. In cross-examination, PW 4 stated that since last year, the accused and her sister are living separately. Both of their daughters are living with their father. She is aware about the village 'bichar' called for against her sister alleging having relationship with one Tag Bahadur Bhojel. She is not aware about what kind of weapon had the accused with him.
16. Out of four prosecution witnesses, PW 1 is the complainant herself, PW 4 is the relative of the PW 1 and PW 2 & PW 3 are the independent witnesses. Collective perusal of the prosecution evidence as a whole it can be summarized that the accused went to place where his wife took shelter on the day of occurrence. We find contradiction in the versions of PW 1 Smt. Ranjana Devi and PW 4 Smt. Menoka Devi as regard the weapon alleged to have carried with him by the accused. Other two witnesses i.e. PW 2 & PW 3 have not mentioned about the weapon carried by the accused with him, though both of them were also present at the place of occurrence and saw the accused at that time. These contradictions amongst the prosecution witnesses clearly suggest to conclude that the accused had not carried any weapon with him when he went to the house where his wife was taking shelter. As between the husband

and wife dispute is going in their conjugal lives, it cannot be ruled out that his visit to his wife annoyed her and as a precaution for herself, she had resorted to this case. Therefore, the version of the prosecution witnesses failed to inspire any confidence about the involvement of the accused person with the alleged offences. In the result, we find no material to incriminate the accused with the alleged offence.

17. 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 447/294/506 I.P.C. against the accused beyond all reasonable doubt. In the result, the accused is not found guilty U/S 447/294/506 I.P.C. Hence, the accused Sri Bal Bahadur Bista is acquitted from the charges U/S 447/294/506 I.P.C. on benefit of doubt and he is set at liberty forthwith.
18. The bail bond shall remain in force for the next six months as per provisions of Section 437(A) Cr.P.C.

Given under my hand and seal of this Court on this 5<sup>th</sup> day of March, 2020 at Udalguri, BTAD, Assam.

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

**Dictated and corrected by me:**

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

**APPENDIX**

- A. Prosecution witnesses : PW 1 – Mrs. Ranjana Devi(complainant)  
PW 2 – Mrs Mon Bahadur Chetri  
PW 3 – Mrs Kumar Subedi  
PW 4 – Mrs Menoka Devi.
- B. Defence witness : Nil.
- C. Documents exhibited : Ext. 1 – Ejahar.

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

Typed and transcribed by me:

(Poonam Rajbangshi/Stenographer)