



IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE

BAKSA: MUSHALPUR

PRESENT: *A.M.Md. Mahiuddin. M.Sc.;LL.B.*
Chief Judicial Magistrate,
Baksa, Mushalpur.

PRC
G.R. case no. 734/2019
^
u/s. 323/427/506 I.P.C.

State

Vs

Chinmoy Pathak

... Accused person.

Date of offence explanation : 21-01-2020
Date of recording evidence : 21-01-2021
Date of hearing argument : 21-01-2021
Date of delivery of the judgment : 21-01-2021

APPEARANCE :

Sri. Kishore Basnet. (Assistant P.P.-For the State).

Sri. Sumi Baishya. (Advocate - For the Accused person).

J U D G M E N T

1. The prosecution case in brief is that informant Sri Mukunda Pathak lodged a written FIR on 27-08-2018 against his son Chinmoy Pathak before the officer-in-charge Mushalpur police station alleging that on 26-08-2018 night about 11 pm the accused under the influence of Alcohol voluntarily caused hurt to him

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A.M.
21/1/21
A.M.Md. Mahiuddin
Chief Judicial Magistrate
Baksa: Mushalpur.

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and his wife Nilima Pathak by assaulting them and also committed mischief by damaging property and also criminally intimidated them

2. The FIR was registered as Mushalpur PS case No-93/18, u/s-323/427/506, IPC and police started to investigate the case. After completion of investigation, the Police submitted charge sheet No. 49/18 dated 31-08-2018 against accused **Chinmoy Pathak u/s 323/427/506, IPC.**
3. Cognizance against the accused was taken and summons issued to him. The accused appeared and went out on bail. Thereafter, he was supplied with the copies of the relevant documents u/s 207, Cr.P.C. As prima-facie material u/s 323/427/506, I.P.C. was found against the accused person; the substance of accusation was explained to him and on being asked the accused pleaded not guilty.
4. During the trial, the prosecution has examined the informant and his wife. Considering the evidence on record prosecution closed its further evidence and as such, depending on the nature of the evidence on record, the examination of the accused person u/s 313 Cr.P.C. is dispensed with. Accordingly, arguments from both sides are heard.

POINTS FOR DETERMINATION

1. *Whether the accused voluntarily caused hurt to the informant Mukunda Pathak and his wife Nilima Pathak by assaulting them?*
2. *Whether the accused committed mischief by damaging household properties as alleged by the informant?*
3. *Whether the accused criminally intimidated the informant and his wife?*

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A.M. Md. Mahiuddin
Chief Judicial Magistrate,
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Chief Judicial Magistrate
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DISCUSSION, DECISION AND THE REASONS THERE OF

5. *It may be mentioned here that, for the convenience of decision, both the points are taken together for discussion. After going through the arguments of both the sides and evidence all records it appears that nothing as alleged in the FIR had taken place on the day of alleged incident. The accused is the son of the informant and the victim and on the day of alleged incident all of them involved in a verbal spat. The informant being father of the accused got emotional and lodged a case against his son. Both the informant and the victim admitted that the accused did nothing as alleged in the FIR and they have no objection if the accused is acquitted.*
6. So it is found that prosecution has failed to discharge its bounded duty to prove the guilt of the accused beyond reasonable doubt and as such the benefit should go to the accused person. Accordingly extending the benefit of doubt the accused **Chinmoy Pathak** is found not guilty and hence acquitted of the offence u/s 323/427/506, IPC.
7. The accused are set at liberty forthwith.
8. The bail bond will remain in force for next 6(six) months or till furnishing of fresh surety by the accused person u/s 437(A), IPC, whichever is earlier.

This judgment is pronounced in the open Court, which is given under my hand and seal of the Court, on this 21st Day of January, 2021.


(A.M.Md. Mahiuddin.)
Chief Judicial Magistrate,
Baksa, Mushalpur.
Chief Judicial Magistrate,
Baksa, Mushalpur

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A.M.Md. Mahiuddin
Chief Judicial Magistrate,
Baksa: Mushalpur,
Chief Judicial Magistrate
Baksa, Mushalpur