

IN THE MAGISTRATE'S COURT AT LABASA

CRIMINAL JURISDICTION

Criminal Case No. 40 of 2016

STATE

v

ASHNI DEVI

Appearance : **PC Lal** for the prosecution
Mrs Devi. S for the accused

Judgment : **16 August 2019**

JUDGMENT

1. The Accused, Ashni Devi is charge for *Assault Causing Actual Bodily Harm*, contrary to section 275 of the *Crimes Decree*.
2. The particulars of the offence are;-
"Ashni Devi on the 23rd day of November 2015, at Labasa in the Northern Division, assaulted Gyan Wati thereby causing her actual bodily harm."
3. The Accused pleaded not guilty to the charge on 18 April 2016.
4. On the same day, Counsel for the Accused informed the court that there is no admission. The case proceeded to

trial on 27 November 2018. The Prosecutor called Gyan Wati (Gyan) as the first witness, and CPL 3504 Ashwin as the second and final witness.

Law

5. *Section 275 of the Crimes Decree, state;-*
"A person commits a summary offence if he or she commits an assault occasioning actual bodily harm.

6. The elements of the offence are;-
 - (a) the accused,*
 - (b) assaulted the victim,*
 - (c) causing actual bodily harm to the victim.*

7. The burden of proof is on the Prosecution to prove all the above elements of the offence beyond reasonable doubt.

Analysis and Determination

8. Gyan is the Victim in this case. She identified the Accused in court as the person who assaulted her on 23 November 2015. She knew the Accused as their daughters went to the same school. The Accused also said that they were neighbours for 12 years. There is no issue on the identity of the Accused.

9. Gyan stated in her evidence that on 23 November 2015, while she was standing beside the main road waiting for the bus. The Accused came and asked her why she is not sending her daughter to school. The Accused started swearing at her, pulled her hair and started hitting and punching her. The Accused scratched her hands and there were scratch marks on her hands. She shouted for help and the Accused was swearing at her and wanted to hit her with the stone. She said the Accused stopped

assaulting her when she pulled the Accused hair. She tendered her medical report as prosecution exhibit 1.

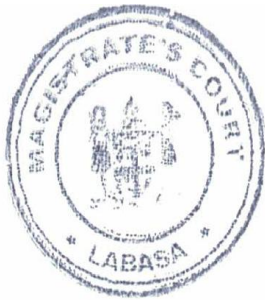
10. CPL Ashwin stated in his evidence that he was the charging officer. He charged Ashni Devi and identified the Accused in court. He tendered the charge statement as prosecution exhibit 2.
11. The Accused wish to give evidence on oath after being advice on her right to remain silent.
12. The Accused stated in her evidence that on 23 November 2015, when she got off from the car, she heard the victim swearing saying bajaranu meaning bitch. There was no one there so she asked the victim whom is she swearing at. She went to the victim, the victim pulled her hair and she fell down. She stood up and the victim punched her eyes and behind her ears and on her shoulders. She was dizzy. She deny the allegation and said that on that day, she wore lots of rings and when she was defending herself her rings probably scratched the victim. Alternatively, she said the victim may scratched herself.
13. The evidence has established that there was a confrontation between the Accused and the Victim. The Victim said that the Accused assaulted her and she received injuries and the injuries were confirmed by the medical report. The Accused said she was assaulted by the Victim.
14. In assessing the credibility of the witness, I believe the evidence of the Victim as her answers were forthcoming when giving her evidence. It is clear from the Accused evidence that she is trying to avoid the wrong she did from the way she gave her evidence. She

said that the victim probably just scratched herself when she already admitted that may be her rings scratched the victim's hands. That shows how she was articulating her answer to avoid being held liable for her wrongdoing. Her denial shows recent innovation by her after she had realised her wrong when the charge is laid against her.

15. I accept the Victim's evidence that she was assaulted by the Accused that caused injuries to her.

16. In this judgment, I find the Accused guilty as charged and convicted the Accused accordingly.

28 days to appeal



A handwritten signature in blue ink, appearing to be "C. M. Tuberi", written over a horizontal line.

C. M. Tuberi

RESIDENT MAGISTRATE