

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR,  
TEZPUR**

**Present :** **Smti Chitrani Goswami, A.J.S**

Judicial Magistrate First Class,  
Sonitpur, Tezpur

**PR case no: 151/2019**

under Sections- 447/294/323/506/34 of Indian Penal Code

State

vs

Md Kasem Ali

Md Rajeeq Ali

Md Asmot Ali

Md Asad Ali

Advocate for the Prosecution	Mr AK Sahani.
Advocate for the Defence	Sadhan Das and Arabinda Das.
Date of recording evidence	13.03.2020, 28.01.2021
Date of hearing argument	28.01.2021
Date of judgment	04.02.2021

**JUDGMENT**

1. The prosecution case in a nutshell is that the instant case was initiated on the lodging of an ejahar dated 04.08.2018 by informant Musstt Habeja Khatoon. She alleged in the ejahar that on 04.08.2018 at about 02:30 p.m, accused person namely Md Asmot Ali entered into the madrasa and there took place a quarrel with her son and the accused assaulted her son with his hands. When she came know about the incident, informant along with her sister went to the place of occurrence and asked the accused person as to why he had assaulted her son,

then all the accused persons pulled her hair and tried to tear her clothes. In order to save their lives, informant along with her sister went away from the place of occurrence to her own house. The accused persons forcefully entered her house and attacked her husband with a sharp weapon and thereby causing him an injury on his husband. Hence the case.

2. On receipt of the ejahar, Dhekiajuli P.S. Case No.578/18 dated 04.08.2018 under Sections – 448/354/325/323/34 of the Indian Penal Code was registered and investigated by SI Danda dhar Kumar. On completion of the investigation, the I/O of the case submitted charge-sheet vide charge sheet no. 379/2018 dated 31.08.2018 against the accused persons namely, Md Kasem Ali, Md Rajeeq Ali, Md Asmot Ali and Md Asad Ali under Sections – 447/294/323/506/34 of Indian Penal Code by ASI Danda dhar Kumar.

3. On receipt of charge sheet, cognizance of offences under Sections – 447/294/323/506/34 of Indian Penal Code was taken as per the provision prescribed under Section 190(1) (b) of Code of Criminal Procedure.

4. On their appearance, necessary copies were furnished to accused persons as mandated under Section 207 Code of Criminal Procedure. Thereafter the particulars of the offences under Sections- 447/294/323/506/34 of the Indian Penal Code were explained to the accused persons and they denied the charges and decided to stand for trial.

5. During trial, the prosecution side to prove its case examined two witnesses including the informant of this case. Since no incriminating materials were found against the accused persons, the statements of defence of the accused persons under Section- 313 Code of Criminal Procedure was dispensed with.

6. I have heard the arguments of both sides.

**7. Points for determination:**

- I. Whether the accused person in furtherance of their common intention on 04.08.18 at about 2:30 p.m committed criminal trespass by entering the house of the informant and thereby committed an offence punishable under Sections 447/34 of the Indian Penal Code?
- II. Whether the accused persons in furtherance of their common intention on 04.08.18 at around 02:30 p.m uttered obscene words to the informant and her son in or near a public place to the annoyance of others and thereby committed an offences under Sections - 294/34 of the Indian Penal Code?
- III. Whether the accused persons in furtherance of their common intention on 04.08.18 at around 2:30 pm voluntarily caused hurt to the informant and her son and thereby committed an offence under Sections - 323/34 of the Indian Penal Code?
- IV. Whether the accused persons in furtherance of their common intention on 04.08.18 at around 2:30 p.m criminally intimidated the informant, her husband and the informant's sister with an injury to their persons and thereby committed an offence under Sections - 506/34 of the Indian Penal Code?

**DISCUSSIONS**

8. In her examination-in-chief, PW1 Nobi Hussain deposed that the informant is his wife. He knows the accused persons who were his uncle. The incident occurred 2 years back. There took place a quarrel between his wife and the accused persons. Out of anger, his wife lodged the case.

In his cross examination, PW1 stated that there was only verbal altercation with the accused persons.

9. In her examination-in-chief, PW2/ informant Rabija Khatoon deposed that she is the informant of this case. She knows the accused persons. The incident occurred on 04.08.2018 at about 02:30 p.m. There took place a quarrel between her and the accused persons due to a misunderstanding relating to her son. She lodged this in the police station out of anger.

Exhibit 1 is the ejahar and Exhibit 1(i) is her signature.

In her cross examination PW2 deposed that accused persons is her relatives and they have resolved the matter.

**Decisions and reasons thereof:-**

10. From perusal of the evidence it is found that the instant case was instituted on the ground of misunderstanding between the informant and the accused persons.

11. As such the prosecution side has failed to prove that the accused persons namely, Md Kasem Ali, Md Rajeeq Ali, Md Asmot Ali and Md Asad Ali have committed the said offences under Sections – 447/294/323/506//34 of the Indian Penal Code against the informant beyond reasonable doubt.

**ORDER**

In light of the aforesaid discussion, I hold the accused persons namely, Md Kasem Ali, Md Rajeeq Ali, Md Asmot Ali and Md Asad Ali are not guilty of offences under Sections – 447/294/323/506/34 of the Indian Penal Code. Hence, they are acquitted from the charges leveled against them. The accused persons are set at liberty forthwith.

Their bail bonds are extended for a period of 6(six) months from the date of this order i.e. 04.02.2021 as per as Section 437(A) Code of Criminal Procedure.

The judgment is delivered in the open Court in presence of the accused persons and their engaged Counsel.

Given under my hand and the seal of this court on this 04<sup>th</sup> day of February, 2021.

Typed by me,

(Smti. Chitrali Goswami), AJS  
Judicial Magistrate First Class,  
Sonitpur, Tezpur.

(Smti Chitrali Goswami), AJS  
Judicial Magistrate First Class,  
Sonitpur, Tezpur

**APPENDIX**

**Prosecution witnesses:**

PW1- Nobi Hussain

PW2- Rabija Khatun

**Prosecution Exhibits:**

Exhibit 1 - Ejahar

**Defence witness:**

Nil

**Defence Exhibit:**

Nil

**Court Exhibit:**

Nil

(Smti Chitrani Goswami), AJS  
Judicial Magistrate First Class,  
Sonitpur, Tezpur