

**IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),
AT GOHPUR, SONITPUR**

**P.R.C.No. – 302/2018
U/S 294/323/352/34 of I.P.C.**

STATE

-Versus-

**Sri Putul Saikia &
Sri Dimbeswar Saikia.....accused persons**

**Present: Smt. Pooja Sinha, AJS,
Sub-Divisional Judicial Magistrate (M)
Gohpur**

Advocate appearing for the State : Smt. Barnali Chetia

Advocate appearing for the Accused : Sri Pankaj Sarmah

Dates of recording evidence : 28.05.2019

Date of hearing argument : 28.05.2019

Date of delivering Judgment : 28.05.2019

JUDGMENT

- 1. The case of the prosecution in brief is that,** on 02.09.2018 at about 5.30 a.m. at Tengakhowa gaon "Naamghar" one Dimbeswar Saikia and one Putul Saikia entered into an altercation attacked one Babul Saikia and abused using foul language. They also used force over Baneswar Saikia .
- 2. In this regard, Sri Babul Saikia, filed an ejarah on 07.09.2016, the Officer-in-Charge, Hawajan outpost registered a case as Hawajan OP GDE No. 92/18 and forwarded to Gohpur P.S. and registered a case as Gohpur P.S. Case No. 244/18 under section 294/325/352/506/34 of I.P.C. The police conducted investigation and thereafter submitted **charge-sheet against the accused persons Sri Putul Saikia & Sri Dimbeswar Saikia, for trial under section 323/352/294/34 of I.P.C.****

3. In due course, the accused persons entered appearance. They were furnished with the copies as required under section 207 Cr.P.C. The particulars of offences were read over and explained under section **323/352/294/34** of I.P.C. to the accused persons, to which they pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution examined two (2) witnesses. The Statement U/S 313 of Cr.P.C. of the accused persons dispensed with. Defence plea was of total denial. Defence opted not to adduce evidence.
5. **Point for determination :**
 - I. **Whether the accused persons on 02.09.2018 at about 5.30 a.m. at Tengakhwa Naamghar in futherance of common intention used obscene language against Babul Saikia which caused him annoyance and thereby committed an offence punishable U/S 294 of I.P.C/34? and**
 - II. **Whether the accused persons on same date, time and place in futherance of common intention caused voluntarily caused hurt to Babul Saikia and thereby committed an offence U/S 323/34 of I.P.C.?and**
 - III. **Whether the accused persons on same date, time and place in futherance of common intention used criminal force upon Sri Baneswar Saikia and thereby committed an offence U/S 352/34 of I.P.C.?**
6. **Discussion, Decision and Reasons thereof:** - I have heard the learned Counsel appearing for the State. Also heard the learned Counsel appearing for the accused persons. Upon hearing the learned Counsel for the parties and on perusal of the records, I am of the considered opinion to hold the following :-
7. **Point of Determination No. I, II& III:** **All the points are taken up together for discussion in order to maintain the flow and appreciation of evidence.**
8. **P.W.1- Sri Babul Saikia, he is the informant. He in his examination-in-chief deposed that** about three months back at about 5.30a.m. he had a quarrel with his cousin brothers. As they filed a case, hence he too filed a case against them. He exhibited the ejahar as Ext.1 and identified his signature thereon.

9. **P.W.2- Baneswar Saikia, he in his examination-in-chief deposed that case** was filed by his son against his nephew as in the month of "Bhado" both quarreled over petty matters.
10. **In the light of the above testimonies and on perusal of the materials on record it reveals that nothing incriminatory is stated as mentioned in the ejahar by both the informant and the victims. Hence, benefit forwarded to accused persons.**
11. Considering the above, I hold that prosecution has failed to prove the guilt of the accused person beyond all reasonable doubt that **on 02.09.2018 at about 5.30 a.m. at Tengakhwa Naamghar in futherance of common intention used obscene language against Babul Saikia which caused him annoyance,caused voluntarily caused hurt to Babul Saikia and used criminal force upon Sri Baneswar Saikia and thereby comitted offences U/S 294/323/352/34 of I.P.C.**
12. **In the result, the accused persons Sri Putul Saikia & Sri Dimbeswar Saikia are hereby acquitted on benefit of doubt U/S 294/323/352/34 of I.P.C. and set at liberty forthwith.**
13. Bail bonds furnished are hereby extended for a period of 6 (six) months..
14. The case is disposed of on contest.

Given under my hand and seal of this court on this the
28th day of May, 2019 at Gohpur.

(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur

Dictated and corrected by me

(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur

APPENDIX

Prosecution Witness-

P.W.1- Sri Babul Saikia

P.W.2- Sri Baneswar Saikia

Defence Witness-

Nil

Prosecution Side Exhibits-

Ext.1- Ejahar

Defence Side Exhibits-

Nil

**(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur**