

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE:  
SONITPUR AT TEZPUR**

Present: Sri Debashish Saikia,  
Chief Judicial Magistrate,  
Sonitpur, Tezpur.

**GR CASE NO.298/17**

**U/s 447/323/294 of IPC.**

state

-vs-

Krishna Das

..... accused

**Appearances:**

N Saikia, Asstt PP : For the prosecution.

D Sinha  
Ld Counsel : For the accused

Date of recording evidence : 18-4-19, 02-05-19

Date of hearing argument : 02-05-19

Date of judgment : 02-05-19

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

1. The informant's case in brief is that :

The informant Sri Narayan Das lodged an ejahar on 24-1-17 stating interalia that on 23-1-17 at about 9 pm, accused after entering into his house, assaulted his wife thereby causing injuries. Hence, the ejahar.

2. On receipt of the ejahar OC Tezpur Police Station registered a case under Tezpur Police Station Case No. 127/17 under Section 447/325 of IPC. The I.O. started investigation of the case and upon completion of investigation submitted the charge sheet against the above named accused person under Section 447/323/294 of IPC to face trial before the Court.

- 3) Cognizance of the offence was taken, and summons was issued against the accused. On appearance of the accused, copy of the case was furnished.
- 4) Vide my order dtd 14-12-18, particulars of offence under Section 447/323/294 of IPC, was explained to the accused to which the accused pleaded not guilty and claimed to be tried.
- 5) During trial, prosecution has examined only three witnesses including the informant. Prosecution declined to adduce further evidence as in the meantime, both the parties have compromised the matter. As such, prosecution evidence is closed.
- 6) Statement of the accused under Section 313 Cr.P.C has not been recorded as there is no incriminating material against him.
- 7) I have heard the arguments advanced by the learned Counsel of both sides and carefully perused the evidences on record.

8) **The points for determination are :**

- i) Whether the accused on 23-1-17 at about 9 pm committed criminal trespass by entering into the house of the informant and thereby committed an offence punishable under Section 447 of IPC ?
- ii) Whether the accused on the same day and time uttered obscene words and language to the informant to the annoyance of others and thereby committed an offence punishable under Section 294 of IPC?
- iii) Whether the accused on the same day and time voluntarily caused hurt to the informant and thereby committed an offence under Section 323 of IPC?

**DISCUSSION, DECISIONS AND REASONS THEREOF:**

- 9) PW1 Sri Narayan Das is the informant of this case and he in his evidence has stated that in the year 2017 at about 8.30 pm, accused quarreled with him and his wife for some trivial matter and out of misunderstanding, he lodged the case but now he has settled the matter. He has identified his ejahar as Ext.1 whereupon Ext.1(1) is his signature.
- 10) PW2 Jayanti Das expressed his ignorance about the occurrence.
- 11) PW3 Smti Munmi Das is the wife of the informant and she deposed in tune with PW1 that on the day of the occurrence, accused persons quarreled with PW1 for some trivial matter but now they have compromised the matter.
- 12) Defence declined to cross-examine the witnesses.
- 13) From the evidence of PW1/informant and PW3/victim, it has come out clearly that no incident took place as alleged in the ejahar. It also appears from their evidence that they lodged the ejahar out of misunderstanding and at present, all of them have compromised the matter. Hence, the offence U/S 447/323/294 of IPC is not attracted in this case.

**ORDER**

Accused Krishna Das is acquitted of the charge u/s 447/323/294 IPC and is set at liberty forthwith.

The liability of the bailor is extended for 6 (six) months from today as per provision of the amended Cr.P.C.

This Judgment is given under my hand and the seal of this Court on this 2<sup>nd</sup> day of May, 2019.

**( D Saikia )**  
**Chief Judicial Magistrate,**  
**Sonitpur, Tezpur**

**Dictated and corrected by me:-**

**(D Saikia)**  
**Chief Judicial Magistrate,**  
**Sonitpur, Tezpur**

**A P P E N D I X**

**Prosecution witnesses**

PW1 is Sri Narayan Das

PW2 Smti Jayanti Das

PW3 Smti Munmi Das

**Defence witnesses**

Nil

**Documents exhibited by the prosecution**

Ext.1 : Ejahar.

**Documents exhibited by the defence**

Nil.

(D Saikia)  
Chief Judicial Magistrate,  
Sonitpur, Tezpur