

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

**GR CASE NO 2392/2014
(U/s 294/352/354 of IPC)**

State

-Vs-

1. Sri Santosh Munda.
..... **Accused person.**

Present: Smti Audri Bhattacharyya,
Addl. Chief Judicial Magistrate,
Sonitpur, Tezpur.

Appearances:

Mr M Hussain,
Learned Addl PP : For the prosecution.

Mr NK Mishra,
Ld Legal Aid Counsel : For the accused.

Date of recording evidence : **21-01-2015, 30-03-2015,
22-04-2015.**

Date of hearing argument : **06-05-2015.**

Date of judgment : **06-05-2015.**

J U D G M E N T

The prosecution case in brief is that:

The ejahar was lodged by the informant Smti Sarala Das on 26-09-2014 alleging *inter alia* that on the same day at about 9 AM accused Santosh Munda illegally entered into her house and uttered obscene words He pushed and pulled her and tore away her clothes and he also tried to outrage her modesty.

2. On receipt of the ejahar, i/c Salonibari Out Post made GD Entry No 624 dated 26-09-2014 and forwarded the same to OC Tezpur PS for registration and investigation of the case. Accordingly, Tezpur PS case 1123/14 under Section 448/294/352/354 of IPC was registered and the case was entrusted for investigation. The IO taking up the duty of investigation, visited the place of occurrence, examined the witnesses, arrested the accused Santosh Munda and forwarded him before the Court and on conclusion of the investigation, submitted charge-sheet against the accused Santosh Munda under Section 294/352/354 of IPC.

3. On taking cognizance, the accused was furnished with copies of the relevant documents.

Heard both the sides pertaining to framing of charge. Considering the materials on case record and the case diary and upon hearing both the sides, prima facie materials charges are framed against the accused under Section 294/352/354 of IPC and same have been read over and explained the accused to which he pleaded not guilty and claimed to be tried.

4. POINTS FOR DETERMINATION:

- 1. Whether the accused person, uttered obscene words and language to the informant and used criminal force to her and committed the offence under Section 294/352 of IPC?***
- 2. Whether the accused person, used criminal force or assaulted the informant with intent to outrage her modesty and are committed the offence under Section 354 of IPC?***

Prosecution had examined as many as four PWs including the informant of the case. Statement of accused under Section 313 CPC has been recorded in which he has denied committing of the alleged offence and declined to adduce evidence. Heard the Learned Counsel for both the sides.

DISCUSSION, DECISION AND REASONS THEREOF:

5. I have carefully perused the evidences on record, to arrive at a just decision.

6. PW1 Smti Sarala Das is the informant of the case. She deposed in her evidence in-chief that on the date of occurrence, the accused illegally entered into her kitchen and assaulted her. He also tore of her clothes. Ext.1 is the ejahar lodged by her and Ext. 1(1) is her signature.

From her cross-examination, it is reflected that there was enmity in between the accused and the relatives of the informant. PW1 in her cross-examination clearly deposed that the accused Santosh Munda is her neighbour and the relationship in between them is very bad. They often quarreled with each other.

7. PW2 Juba Karmakar, PW2 Prafulla Das and PW4 Bina Karmakar are all the people from the same locality wherein the accused and the informant reside. All these three witnesses did not support the story of the prosecution. PW2 deposed that there was fighting in between the accused and the son of the informant on the road. In fact the accused Santosh Munda was injured in the fighting. PW3 also deposed that there was fighting from both the sides, the accused as well as the informant and her son. But, she could not say as to who had used offensive language. During cross-examination, PW3 went a step ahead and deposed that the informant and her son Kailash Das had actually caused injury to the accused person and Kailash das caused injury to Santosh Munda on his leg with a dao. PW4 also deposed that the informant and her son caused grievous injury to the accused person and they tight him up to a tree and caused her to his leg.

8. Considering the evidence adduced by the independent prosecution witnesses, it is seen that prosecution has failed to prove the offence against the accused person under Section 294/352/354 of IPC beyond all

reasonable doubt. Though PW1 deposed in support of her FIR lodged by her, her neighbours PW2, PW3 and PW4 did not depose in tune with the story of PW1. Rather, they said that the accused was assaulted and injured by PW1 and her son.

Considering the above facts and circumstances of the case, I find that the prosecution has totally failed to prove the offences under Section 294/352/354 of IPC against the accused beyond all reasonable doubt. Hence, the accused is held not guilty of the said offences and is hereby acquitted and set at liberty forthwith.

The bail bond for accused stands extended till expiry of six months from today.

The case is disposed of on contest.

This Judgment is given under my hand and the seal of this Court on this 6th day of **May, 2015**.

(Smti Audri Bhattacharyya)
Addl Chief Judicial Magistrate,
Sonitpur, Tezpur

Dictated and corrected by me:-

(Smti Audri Bhattacharyya)
Addl Chief Judicial Magistrate,
Sonitpur, Tezpur

Transcribed and typed by me:

(Pori Das)
-Steno-