

**GR CASE NO: 551/2007**  
**PROSECUTOR: STATE OF ASSAM**  
**ACCUSED: SRI JOYDHAN NAG**

**DISTRICT: SONITPUR**

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

**GR CASE NO 551/2007**

**(arising out of Dhekiajuli PS Case No 128/2007)**

**U/S 448/354 IPC**

**PROSECUTOR: STATE OF ASSAM**

**VERSUS**

**ACCUSED: 1.) SHRI JOYDHAN NAG**

**PRESENT: Ms Meenakshi Sarmah, AJS**

**Judicial Magistrate First Class,**

**Tezpur, Sonitpur.**

**APPEARED FOR:**

**FOR THE STATE: SHRI A SHARMA, Asst PP**

**FOR THE ACCUSED PERSON: SHRI P BISWAS**

**OFFENCE EXPLAINED ON: 15/5/2008**

**EVIDENCE RECORDED ON: 5/5/2015**

**ARGUMENT HEARD ON: 5/5/2015**

**JUDGEMENT DELIVERED ON: 6/5/2015**

**TYPED: MS M SARMAH, AJS**  
**JMFC, TEZPUR**

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

1. The brief facts leading to the prosecution of Shri Joydhan Nag (*hereafter referred as accused persons*) in Dhekiajuli P.S. Case No. 128/2007 u/s 457/354 IPC is that on 2.4.2007 at about 12:00 AM the accused entered into the house of Smt Tulsi Nag (*hereafter referred as informant*) and tried to do bad act with her. The informant then shouted and the accused ran away.
2. On receipt of an ejahar to this effect from the informant on 4/4/2007, O/C Dhekiajuli P.S. registered above noted case and endorsed S.I. R Sarkar to investigate the case. The I/O then visited the place of occurrence, examined the witnesses and arrests the accused person who was enlarged on bail since the offence was bailable in nature. Then on completion of investigation the I/O laid charge-sheet against the accused person U/S 448/354 IPC to stand trial in the court under the said sections of law.
3. The accused person appeared before the court. Particulars of offence U/S 448/354 IPC were read over and explained to the accused person to which they pleaded not guilty and claimed to be tried.
4. The prosecution side has examined only three witnesses and exhibited one document in support of its case. The defence case is total denial and adduced no evidence in defence. Examination of the accused persons U/S 313 CrPC. was dispensed with due to lack of incriminating materials against them. It would be pertinent to mention herein that the prosecution prayed to close its evidence because the principle witnesses i.e., the informant along with the victim have not supported the case; hence the further examination of the other formal witnesses would amount to abuse of the process of court.

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5. Upon the case set up by the prosecution I have framed the following points for determination in this case in order to arrive at a definite finding as regards the matter in dispute-

***(i.) Whether the accused person on 2/4/2007 at around 12 am entered into the property of the informant to commit offence and thereby committed offence under section 448 IPC?***

***(ii.) Whether the accused on the same date, time and place assaulted or used criminal force upon the informant knowing that it would outrage her modesty and thereby committed offence under section 354 IPC?***

### **DISCUSSION, DECISION AND REASONS THEREOF:**

6. To establish the culpability of the accused person the prosecution side has examined the informant and two witnesses and exhibited the ejahar as Exhibit 1. I have gone through the same carefully.
7. ***PW 1, Smt Tulsi Nag*** who is the informant as well as the victim of this case had stated that the accused is her brother –in-law and on the alleged day of incident when he came to her house at around 12:30 am and created hull , she got scared and shouted since she used to stay alone. Thereafter she had filed this case against the accused. She proved Exhibit 1 as the ejahar lodged by her.

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8. ***PW 2, Sri Gadadhar Nag*** and ***PW 3 Sri Boloram Munda*** had stated that on date of alleged incident they heard the shout of the informant and came outside. They have not seen what have happened.
9. On perusal of the above evidences on record, it has come out clear that the informant had stated a complete different story from that of Exhibit 1. In fact she had admitted in her cross examination that the accused is her brother-in-law and from the last sixteen years he had never behaved with her in any bad manner. Rather, PW 1 had stated that she had filed this case out of anger and misunderstanding against the accused person. Thus what has come out from the entire evidence on record is that since the informant used to stay alone she got scared because the accused came out at night. It is quite natural that any lady will react if at the night hours any male person come and create noise. But the informant had clearly admitted that the accused did not try to do any wrong thing with her. Further the accused being the brother-in-law used to keep coming into the house of the informant and on the alleged date of incident since he came in a wrong time, the misunderstanding arose but he did not intended to enter the property of the informant to commit any offence.
10. PW 2 and PW 3 are mere hearsay evidences and as such holds no weigh to prove the guilt of the accused person.
11. As such in view of the discussions made above it is held that the prosecution has failed to prove that the accused persons have committed the alleged offences of molestation and criminal trespass at the relevant time as alleged in their ejahar.
12. ***DECISION:*** The prosecution has failed to prove that the accused persons have committed the alleged offences of molestation and criminal trespass at the relevant time as alleged in their ejahar; as such all the points for determinations are answered in the negative and in favour of the accused person.

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**ORDER**

13. In view of the discussions made above and the decision reached in the foregoing issues it is held that the prosecution has failed to prove the charges against the accused person; as such the accused person is acquitted of the charges under section 448/354 34IPC and is set at liberty forthwith.
  
14. The bail bond of the accused person and his surety shall remain in force for another six months from today.
  
15. The case is disposed of on contest without cost.

***Given under my hand and the seal of this court on this the 6<sup>th</sup> day of May, 2015 at Tezpur.***

***(Ms Meenakshi Sarmah)***

***Judicial Magistrate First Class,***

***Tezpur, Sonitpur***

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**APPENDIX**

**PROSECUTION EXHIBITS:**

EJAHAR

**DEFENCE EXHIBITS**

NONE

**COURT EXHIBITS:**

NONE

**PROSECUTION WITNESSES**

- 1.) SMT TULSI NAG
- 2.) SRI GADHADHAR NAG
- 3.) SRI BOLORAM NANDA

**DEFENCE WITNESSES**

NONE

**COURT WITNESSES**

NONE

***(Ms Meenakshi Sarmah)***

***Judicial Magistrate First Class,***

***Tezpur, Sonitpur***