

**G.R No-1160 of 2017**  
**(State of Assam Vs Md. Innamul Haque & Ors)**

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

**G. R. Case No. 1160 of 2017**

Under section-448/294/323/506/34 of I.P.C

Present:- **Sri N. J. Haque, AJS,**  
**Chief Judicial Magistrate,**  
**Sonitpur, Tezpur**

State of Assam

-Vs-

1. Md. Innamul Haque
2. Md. Abdul Hekim
3. Must. Santana Begum

All are R/O:- Koroiani Nepali

P/S:- Tezpur

Dist:-Sonitpur, Assam .....Accused Persons

**Advocate appeared:**

Mr. N. K. Mishra, Addl. P.P..... For the State

Mrs. Marami Das, Ld. Advocate..... For the accused persons

|                              |                            |
|------------------------------|----------------------------|
| Evidence recorded on         | :- 06.08.2019 & 23.02.2021 |
| Date of Statement of defence | :- 23.02.2021              |
| Argument heard on            | :- 23.02.2021              |
| Judgment delivered on        | :- 23.02.2021              |

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

**History of Prosecution's Case**

1. Prosecution's case appears to be in a narrow campus is that one Must. Sahera Khatoon lodged an ejahar before the O/C of Tezpur P.S alleging inter alia that on 28.03.2017 at about 7 PM, the accused persons, namely, Md. Abdul Hekim, Must. Santana Begum and Md. Innamul Hussain illegally entered into her house along with arms in their hand and tried to take away some gold ornaments, jewelry and Rs.30,000/- from her house. It is also stated that when she raised hue and cry accused Md. Abdul Hekim physically assaulted her with iron rod on her head and due to that she sustained head injury. She also pleaded that all the accused

**G.R No-1160 of 2017  
(State of Assam Vs Md. Innamul Haque & Ors)**

persons scolded her with filthy languages and also threatened her to kill if she informed the matter to the police. It is further stated that all the accused persons also physically assaulted Must. Ajmina Khatoon and Ambiya Khatoon and due to that they sustained severe injuries on their persons.

**“INVESTIGATION”**

2. On receipt of the ejahar, Tezpur P.S Case No. 597 of 2017 under section-141/147/148/384/325/294 of Indian Penal Code was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet under section-448/294/323/506/34 of I.P.C against the above-named accused persons.

**CHARGE & TRIAL**

3. In pursuant to the court's process, the accused persons appeared before the court and they were allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above named accused persons. After hearing both side, particulars of offences u/s-448/323/294/506/34 of I.P.C. were read over and explained to the accused persons, on which they pleaded not guilty and claimed to be tried.

**STATEMENT OF DEFENCE**

4. The prosecution side to prove the guilty of the accused persons examined two numbers of witnesses in support of this case. Considering the testimonies of the witnesses, prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Accused persons are examined u/s-313 Cr.P.C and their pleas of denial were recorded in separate sheet and the same kept with the case record. Accused declined to adduce evidence on their defence.

**ARGUMENT**

5. I have heard arguments of both sides, gone through the case record in the backdrop of evidences presented before this court by prosecution side.

6. **The points for determination in this case are:**

- (i) Whether on 28.03.20217 at about 7 PM at a place called Koroiani Nepali under Tezpur PS, the accused persons in furtherance of their common intention committed

**G.R No-1160 of 2017**  
**(State of Assam Vs Md. Innamul Haque & Ors)**

trespass by entering into the house of the informant named Must. Sahera Khatoon and thereby committed an offence punishable u/s-448/34 of IPC?

(ii) Whether the accused persons on the same date, time and place in furtherance of their common intention scolded the informant using filthy languages and thereby committed an offence punishable u/s-294/34 of IPC?

(iii) Whether on the same date, time and place, the accused persons in furtherance of their common intention voluntarily caused simple hurt to the informant named Must. Sahera Khatoon by way of beating her with iron rod and thereby committed an offence punishable under section-323/34 of IPC?

(iv) Whether on the same date, time and place the accused persons in furtherance of their common intention committed criminal intimidation by threatening the informant with dear consequences of her life and thereby committed an offence punishable u/s-506/34 of IPC?

**DECISION, DECISION AND THE REASON THEREOF:**

7. In this case, prosecution side has got the burden of prove that on 28.03.2017 at about 7 PM, the accused persons, namely, Md. Abdul Hekim, Must. Santana Begum and Md. Innamul Hussain illegally entered into her house along with arms in their hand and tried to take away some gold ornaments, jewelry and Rs.30,000/- from her house and when she raised hue and cry accused Md. Abdul Hekim physically assaulted her with iron rod on her head and due to that she sustained head injury. It also stated that the accused persons scolded her with filthy languages and also threatened her to kill if she informed the matter to the police. It is further stated that all the accused persons also physically assaulted Must. Ajmina Khatoon and Ambiya Khatoon and due to that they

**G.R No-1160 of 2017**  
**(State of Assam Vs Md. Innamul Haque & Ors)**

sustained severe injuries on their persons. In this case prosecution side to prove the case examined two numbers of witnesses in support of this case. I have carefully travelled through the testimonies of the prosecution witnesses in the backdrop of entire prosecution case and it finds:-

8. PW-1, Must. Fatema Begum deposed before this court that she knows the informant and the accused persons of this case. She further deposed that the incident took place around two years back and on the date of alleged incident during evening time, an altercation between the informant and the accused persons and due to that accused Md. Abdul Hekim physically assaulted the informant with lathi. There was also dashing pushing took place between the informant and the accused persons. PW-1 in her cross-examination testified that the informant is her own aunt. She also deposed that accused Innamul arrived at the place of occurrence after the incident took place. She denied the fact that accused Abdul Hekim had not physically assaulted the informant.
9. PW-2, Must. Sahera Khatoon being the informant of this case deposed before this court that she knows the accused persons of this case. She further deposed that the incident took place around two years back and on the date of alleged incident, one day she had an altercation with the accused persons and due to miss-understanding she lodged the ejahar against the accused persons. She admitted that due to dashing pushing took place, she along with Murshida sustained injuries. Now, they have amicably settled the dispute outside the court for which she does not want to proceed further against the accused persons. She deposed that she does not have any objection if the accused persons are acquitted from this court. The cross-examination PW-2 declined b the defence side.
10. Hence, it apparently appears before this court that the PW-2 being the informant of this case contradicted the entire contentions of the ejahar by way of testifying that she had an with the accused persons and due to that she lodged the instant case and now she does not want to proceed with this case against the accused persons. She admitted that she does not have any objection, if the accused persons get acquittal from this case. PW-1 deposed before this court that there was an altercation between the informant and the

**G.R No-1160 of 2017**  
**(State of Assam Vs Md. Innamul Haque & Ors)**

accused persons and due to that accused Abdul Hekim physically assaulted the informant. Hence, it is seen that PW-1's version regarding the physical assault by the accused persons upon the victim (PW-2) on the date of alleged incident appears to be not supportive from the version of the victim PW-2.

11. To sum up the testimonies of the witnesses, it reveals before this court that PW-1 and PW-2 appears to be contradictory with the entire contention of the ejahar and their testimonies cannot be relied upon.
12. In view of the above evidence on record, I am of the opinion that prosecution side has failed to prove the charges against the accused persons, beyond reasonable doubt and as such accused persons are acquitted from the charges u/s-448/294/323/506/34 of IPC and sets at liberty. Surety is extended for six months in view of section-437A of Cr PC.
13. Judgment is pronounced in the open court, which is given under my hand and seal of this court on 23<sup>rd</sup> day of February, 2021.

**(Sri N. J. Haque)**  
**Chief Judicial Magistrate,**  
**Sonitpur: Tezpur**

**G.R No-1160 of 2017  
(State of Assam Vs Md. Innamul Haque & Ors)**

**ANNEXURE**

**1. Witnesses for Prosecution:-**

PW-1:- Must. Fatema Begum

PW-2:- Must. Sahera Begum, the Informant

**2. Witnesses for Defence: NIL**

**3. Court Witnesses: NIL**

**4. Prosecution Exhibits: NIL**

**5. Defence Exhibits: NIL**

**6. Material Exhibits: NIL**

Chief Judicial Magistrate  
Sonitpur, Tezpur