

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

Tezpur, Sonitpur

PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS

Judicial Magistrate First Class,

Tezpur, Sonitpur

G.R. Case No. 1057/17

State

Versus

Guljar Hussain and Ramjan Ali

(Under section 448/323/294/34 IPC)

Offence Explained on: 10.05.2019

Evidence recorded on: 23.05.2019

Statements recorded on: Dispensed with.

Arguments heard on: 23.05.2019

Judgment delivered on: 23.05.2019

Advocate for the Prosecution: Ms. Neeva Devi and Mr. Tapan Das

Advocate for the Accused: Ms. Dulumoni Sinha

J U D G E M E N T

Prosecution Case in brief:

1. The case of the prosecution in brief is that on 18.03.2017 at about 9:30 pm the accused persons wrongfully entered into the house of the informant and called for her husband. When the informant open the door the accused persons physically assaulted her and because of which she sustained to injuries on various parts of her body. It is further alleged that the accused persons even beat the daughter of the informant who was then aged about three years nine months. When the informant raised hue and cry their neighbours came to her house and the accused persons thereafter fled away. It is also stated by the informant that the accused persons threatened to kill the informant and even keeps on roaming in the roads by holding dao, sticks to hit the informant and her family members. The informant also stated that there was an delay in lodging the ejarah as she kept thinking that the matter amongst them would be settled as the accused persons are her relatives. Hence this case.

2. The officer in charge of Tezpur Police Station has registered a case as Tezpur P.S. Case no 539/17, u/s 448/325/354/511/506/34 of the Indian Penal Code. Thereafter, I/O has launched the investigation of this case. After completion of investigation, I/O has finally submitted charge sheet u/s 448/323/294/34 IPC against the accused persons.

3. Thereafter, cognizance has been taken and summon have been issued to the accused persons. On appearance of accused persons, necessary documents required u/s 207 Cr. P.C have been furnished to him. On perusal of the materials on record particulars of offence u/s 448/323/294/34 IPC is read over and explained to the accused persons to which he pleaded not guilty and claimed to be tried.

4. Prosecution, in support of its case has examined only one (1) witness.

5. Examination of accused persons u/s 313 Cr. P.C. is dispensed with since no incriminating materials are found against them.

6. I have heard the arguments advanced by the learned counsel for the accused persons and Ld. A.P.P. Perused the materials available in the case record. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

POINTS FOR DETERMINATION:

Point No 1: Whether the accused persons in furtherance of common intention committed house trespass by unlawfully entering into the house of the informant as alleged and thereby committed an offence punishable under Section 448/34 of the IPC?

Point No 2: Whether the accused persons in furtherance of common intention voluntarily caused hurt to the informant as alleged and thereby committed an offence punishable under Section 323/34 of the IPC?

Point No 2: Whether the accused persons in furtherance of common intention uttered obscene slang words and languages to the informant as alleged and thereby committed an offence punishable under Section 294/34 of the IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

7. Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case. **P.W-1 Mofida Begum** deposed in her evidence in chief that accused Guljar Hussain is her brother in law and Ramjan Ali is her father in law. This incident took place two years ago. There arose some altercations amongst them owing to some personal issues and out of anger and misunderstanding the informant lodged this instant case against the accused persons. P.W-1 further deposed that now they are maintaining a cordial relationship and hence she no longer intends to proceed with this instant case against the accused persons.

8. During cross examination P.W-1 deposed that she hold no objection if the accused persons are acquitted from this instant case.

9. From the evidence of P.W-1, it reveals that, the informant is no more interested to proceed with the case against the accused persons on the ground that the matter is amicably settled between them. It also reveals that the informant herself has refused to lead evidence against the accused persons in support of the ejahar lodged in this case by her. Hence, I am of the considered opinion that prosecution has miserably failed to prove this case against the accused persons. Thus, from the little evidence that has been brought before this court in the form of the statements made by the informant it is seen that no offence has been made out against the accused persons under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused persons of any offence.

ORDER

10. In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused persons namely Guljar Hussain and Ramjan Ali. Accordingly, accused persons are acquitted of the charges u/s 448/323/294/34 levelled against them in this instant case.

11. Set the accused persons at liberty forthwith.

12. The bail bond for the accused persons are extended for a further period of six (6) months.

13. The case is disposed of on contest accordingly.

Given under my hand and seal on this 23rd day of May, 2019 at Tezpur, Sonitpur.

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Tezpur, Sonitpur

APPENDIX

A. WITNESS OF PROSECUTION:

1. P.W-1: Mofida Begum

B. EXHIBITS OF PROSECUTION:

1. Exhibit.1: Ejahar
2. Exhibit 1(1) and 1(2): Signatures of the informant

C. WITNESS OF DEFENSE: NIL

D. EXHIBITS OF DEFENSE: NIL

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Tezpur, Sonitpur