

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. 3931 of 2017

State

Versus

Musstt Fulmoni Khatoon

(Under section 294/323 IPC)

Offence Explained on: 08.05.2019

Evidence recorded on: 08.05.2019

Statements recorded on: Dispensed with.

Arguments heard on: 08.05.2019

Judgment delivered on: 08.05.2019

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

Advocate for the Accused: Mr Nazrul Islam

J U D G E M E N T

Prosecution Case in brief:

1. The prosecution case in brief is that on 04.10.2017 at about 4 p.m. the accused person uttered obscene slang words to the informant. On 05.10.2017 at about 4 p.m. accused Majibur Islam and Md Riajuddin wrongfully entered into the house of the informant and dragged her out from her house and also physically assaulted her resulting in injury. It is further alleged that the accused person threatened to kill her. Hence this case.

2. On receipt of the ejahar Borshola Outpost forwarded the same to the O.C, Dhekiajuli PS for registering a case, investigating and submit the report in final form. The officer in charge of Dhekiajuli Police Station has registered a case as Tezpur P.S. Case no 900/17, u/s 294/447/323/354/506/34 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 294/323 IPC against Fulmoni Khatoon.

3. Thereafter, cognizance has been taken and summon have been issued to the accused person. On appearance of accused person, necessary documents required u/s 207 Cr. P.C have been furnished to her. On perusal of the materials on record particulars of offence u/s 294/323 IPC is read over and explained to the accused person to which they 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 person u/s 313 Cr. P.C. are dispensed with since no incriminating materials are found against her.

6. I have heard the arguments advanced by the learned counsel for the accused person 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 person uttered obscene words and languages to the informant and thereby committed the offence punishable under Section 294 of the IPC?

Point No 2: Whether the accused person voluntarily caused hurt to the informant and thereby committed the offence punishable under Section 323 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 Sharifa Khatoon** deposed in her evidence in chief that the accused is her neighbour. There arose some altercation amongst them owing to some household issues almost one and half year ago and out of anger and misunderstanding she lodged this instant case against the accused person. Now there is an amicable settlement amongst them and hence P.W-1 no longer intends to proceed with this instant case against the accused person. P.W-1 holds no objection if the accused is acquitted from this instant case.

8. Cross examination of P.W-1 is declined.

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 person 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 person in support of the ejarah 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 person. Thus, from the little evidence that has been brought before this court in the form of the statements made by the informant and P.W-1 it is seen that no offence has been made out against the accused person under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused person 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 person namely Musstt Fulmoni Khatoon. Accordingly, accused person are acquitted of the charges u/s 294/323 levelled against her in this instant case.

11. Set the accused person at liberty forthwith.

12. The bail bond for the accused person is 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 8th 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: Sharifa Khatoon

B. EXHIBITS OF PROSECUTION:

1. Exhibit.1: Ejahar
2. Exhibit 1(1): Signature of the informant

C. WITNESS OF DEFENSE: NIL

D. EXHIBITS OF DEFENSE: NIL

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