

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

PRESENT : Mrs. A. Rahman, A.J.S.,  
Addl. Chief Judicial Magistrate, Sonitpur.

For the prosecution .... Sri.P.Baruah .....A P.P.  
For the accused person ..... Sri. B. Tamuli ..... Advocate.

**Ref. : G.R. Case No. 3731 of 2016.**

State of Assam  
-vs-  
Dehiram Nath

.....Accused person

**Under sections u/s 447/427/294 of I.P.C.**

Offence explained on..... 02.08.18  
Evidence recorded on .....04.04.19  
Arguments heard on .....04.05.19  
Judgment delivered on.....04.05.19

**JUDGEMENT**

1. The prosecution case, in brief, is that on 01.11.16 at about 11.30 AM, accused Dehiram Nath trespassed into the premises of the informant and cut a tree without his consent. Thereafter, he allowed his cattle to trespass into the premises of the informant and caused mischief by way of damaging plants, trees etc. That accused often used to trespass into his premises and take away articles without his consent and also used to rebuke him using obscene words. Hence, this case.
2. On receipt of FIR, the Officer-in-charge of Tezpur P.S. registered the case Tezpur P.S. Case No. 1990/16, U/S- 447/427/294 of I.P.C. and caused investigation.

After completion of the investigation, the concerned I.O. submitted charge sheet against accused Dehiram Nath for commission of offences u/s 447/427/294 of I.P.C.

3. In due course, the accused persons appeared before the Court and the copies of relevant documents were furnished to him as per section 207 Cr.P.C. Having found a prima-facie case against the accused person u/s 447/427/294 of I.P.C. the particulars of offences under said sections of law were explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. The prosecution, in support of its case, examined one witnesses, and as per submission of learned A.P.P., further evidence of prosecution side is closed. The defense side examined no witness. Statements U/S 313 Cr. P.C was dispensed with. I have heard the arguments advanced by the learned counsel of both the sides.

**POINTS FOR DETERMINATION :**

- (i) **Whether the accused persons on 01.11.16 at 11.30 AM, had entered into the property of the informant in order to cause mischief and rebuke the informant and thereby, committed an offence punishable u/s 447of IPC. ?**
- (ii) **Whether the accused persons on the same date, place and time, had committed mischief by causing damage to the construction materials of the informant thereby committed an offence punishable u/s 427 of IPC. ?**
- (iii) **Whether the accused persons on the same day place and time had used obscene words against the informant in public place to her annoyance and thereby committed an offence punishable u/s 294 of IPC. ?**

**DISCUSSION, DECISION AND REASONS THEREOF:**

5. **PW 1, Indeswar Nath, the informant,** stated that accused is his neighbour. That on 02.11.16 he had filed an FIR against him out of misunderstanding. That at present he has no grievance against the accused. Ext. 1 is the FIR wherein Ext. 1(1) is his signature.

6. From discussion of the aforesaid evidence, it is seen that the case was filed out of misunderstanding and as such it is held that the prosecution has failed to bring home the guilt of the accused person beyond all reasonable doubt. The ingredients of the offences u/s 447/427/294 of IPC has not been proved against the accused person.
6. Therefore, accused person namely Dehiram Nath is acquitted of the said offences and he be set at liberty forthwith. Their bail bond stands cancelled and the bailer is discharged from the liability.
7. Signed, sealed and delivered in the open Court on this 4<sup>th</sup> day of May, 2019, at Sonitpur.

**(Smt. A. Rahman)**

**Addl. Chief Judicial Magistrate,**

**Sonitpur :: Tezpur**

**APPENDIX**

WITNESSES FOR THE PROSECUTION :

PW 1, **Indeswar Nath**

WITNESSES FOR THE DEFENCE :

NIL.

DOCUMENTS EXHIBITTED :

Ext-1 : FIR

**(Smt. A. Rahman)**

**Addl. Chief Judicial Magistrate,**

**Sonitpur :: Tezpur**

## **ORDER**

**04.05.19**

Accused Dehiram Nath is present.

After going through the materials available on record, I am of the considered opinion that the prosecution has failed to bring home the guilt of the accused Dehiram Nath for commission of offences u/s 447/427/294 of I.P.C. beyond all reasonable doubts.

Therefore, accused Dehiram Nath is acquitted of the said offences and he be set at liberty forthwith. Their bail bond stands cancelled and the bailer is discharged from the liability.

Judgment prepared separately and kept with the record.

**(Smt. A. Rahman)**

**Addl. Chief Judicial Magistrate,**

**Sonitpur :: Tezpur**