

DISTRICT: SONITPUR
IN THE COURT OF MR. A. HAZARIKA, S.D.J.M.(M) AT BISWANATH CHARIALI.

P.R. Case No.37/2019

U/S 294/323/340F I.P.C.

STATE OF ASSAM

.....**PROSECUTOR**

-VERSUS-

- 1.** SRI BUBUMONI DAS,
S/O.SRI PARUWA DAS,
- 2.** SRI PARUWA DAS,
S/O. LATE SARULORA DAS,
- 3.** SRI DHUNU DAS,
S/O. SRI PARUWA DAS AND
- 4.** SMT. LEMA DAS,
W/O. SRI PARUWA DAS,
ALL ARE R/O. VILLAGE- RANGSALI KOIBARTA,
P.S. BEHALI, DIST. BISWANATH, ASSAM.

.....ACCUSED PERSONS

PRESENT: MR. A. HAZARIKA, S.D.J.M.(M) AT BISWANATH CHARIALI.

ADVOCATE FOR THE PROSECUTION: A.P.P, MS. S. BORAH,

ADVOCATES FOR THE ACCUSED PERSONS: MR.D. DAS, LAC.

OFFENCE EXPLAINED ON: 04.06.2020,

EVIDENCE RECORDED ON: 03.02.2021,

ARGUMENT HEARD ON: 03.02.2021 AND

JUDGMENT DELIVERED ON: 03.02.2021.

JUDGMENT

- 1.** The prosecution case in brief is that one Smt. Marami Baruah lodged an F.I.R. before O.C. Behali P.S. stating inter alia that on 11.11.18 at about 9.00 p.m. accused Paruwa Das started scolding her under the influence of liquor regarding damage of a mobile phone. The informant sent the said accused back saying that she would cause the mobile phone repaired. In the meantime the

husband of the informant returned to home and the said accused also chased him and started scolding them again. The informant told the accused to leave to his home but he caught her hand. By observing the incident the husband of the informant engaged into a verbal quarrel with the accused Paruwa Das by saying as to why he caught the hand of informant. Thereafter, all the accused persons came out and assaulted the son of informant namely Sri Pradip Baruah.Hence this case.

2. On receipt of the F.I.R.O/C/ Behali P.S.registered the same as Behali P.S. Case No.129/18, U/S 294/325/34of I.P.C. and conducted investigation into the matter. On completion of the investigation, the police submitted charge-sheet against the accused persons U/S 294/323/34of I.P.C.
3. The accused persons entered their appearance in response to the process issued. Copies of the relevant documents were furnished to the accused persons in accordance with Section-207Criminal Procedure Code.Particulars of offences U/S 294/323/34of I.P.C.are read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. During trial, the prosecution examined only 2 (two) witnesses and exhibited 1 (one) document after which the prosecution evidence is closed. The statement defence of the accused persons as mandated by Section-313 Criminal Procedure Code are dispensed with due to lack of sufficient materials. Defence declined to adduce any evidence.
5. Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court:
 - i) *Whether the accused persons on 11.11.18 at about 9.00 p.m.in furtherance with their common intention scolded Smt. Moromi Baruah in obscene language in or near to public place and the same caused annoyance to her and thereby committed an offence punishable u/s 294/34 of I.P.C.?*
 - ii) *Whether the accused persons on 11.11.18 at about 9.00 p.m.in furtherance with their common intention voluntarily*

caused hurt to Sri Pradip Baruah and thereby committed an offence punishable u/s 323 of I.P.C.?

6. I have heard the learned counsel on both sides and have gone through the evidence on record which have been outlined below.

EVIDENCE

7. **P.W.1**Smt. Marami Baruah, the informant deposed that she lodged the F.I.R. out of anger. She exhibited the F.I.R. as **Exhibit-1**. Prior to 2 years in a day she had some verbal quarrel with the accused persons as the accused persons scolded her son. During cross-examination she deposed that except some verbal altercation no other incident took place. She and her family members have mutually settled their dispute. She has no objection if the accused be acquitted.
8. **P.W.2**Sri Pradip Baruah, the victim deposed that prior to 2 years in a day at day time accused persons scolded him. Hence, he ran towards his home and sustained injuries by falling on ground. When he narrated the incident to his mother, she lodged this case out of anger. During cross-examination he deposed that the accused persons have not assaulted him. The incident took place due to misunderstanding.

DICISSION, DISCUSSION AND REASON FOR DICISSION:

9. For the sake of convenience both the points for determinations are taken together:

POINT FOR DETERMINATION No.(i) AND (ii):

10. The evidence of P.W.1 and P.W.2 are of such a nature that it could be easily understood that the incident took place out of misunderstanding out of a simple verbal altercation only. The contents of F.I.R. and the available evidence does not match with each other. The P.W.2 on his cross examination clearly deposed that the accused persons have not assaulted him. Therefore, considering the evidence of P.W.s it reveals that the prosecution has measurably failed to prove any offences U/s 294/323/34 of I.P.C. against the accused

persons. Accordingly, the accused persons are found to be not guilty for committing offences U/s 294/323/34 of I.P.C. and thus they are acquitted.

ORDER

Accused persons are hereby acquitted from the charges and set at liberty forthwith.

The bail bonds of the accused persons and their surety shall remain in force for six months from today as per section 437A Cr.P.C.

Given under my hand & seal of this Court on this 3rd day of February, 2021.

Dictated & Corrected by me
Sub-Divisional Judicial Magistrate (M)
Biswanath Chariali

(Amarendra Hazarika)

APPENDIX

PROSECUTION EXHIBIT:

EXHIBIT-1: FIR DATED 12.11.2018.

DEFENCE EXHIBIT:

NONE.

PROSECUTION WITNESS:

PW1- SMT. MOROMI BARUAH, THE INFORMANT AND
PW2-SRI PRADIP BARUAH, THE VICTIM.

DEFENCE WITNESS:

NONE.

(Amarendra Hazarika)
Sub-Divisional Judicial Magistrate (M)
Biswanath Chariali