

P.R No-1064 of 2018
(State of Assam Vs Md. Nur Islam)

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

P. R. Case No. 1064 of 2018

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

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

State of Assam

-Vs-

Md. Nur Islam

S/O:- Late Hazi Mahammad Asamullah

R/O:- Baithabhanga

P/S:- Tezpur

Dist:-Sonitpur, AssamAccused Person

Advocate appeared:

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

Mr. Abhijit Bhuyan & Anr, Ld. Advocates..... For the accused person

Evidence recorded on	:- 09.02.2021
Date of Statement of defence	:- 09.02.2021
Argument heard on	:- 09.02.2021
Judgment delivered on	:- 09.02.2021

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 on 14.12.2017 one Sri Sadananda Hazarika lodged an ejarah before the O/C of Tezpur P.S through I/C of Salonibari Police Outpost alleging inter alia that on 13.12.2017 at about 8 PM, accused named Md. Nur Islam took him to the house of one Sri Bijoy Orang and when he asked the accused as to why accused took him to the house of said Sri Bijoy Orang, then he asked him as to why he did not provide the scholarship to his son. It is also alleged that thereafter, the accused illegally entered into his

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house and started abusing him with filthy languages and also threatened him to kill.

"INVESTIGATION"

2. On receipt of the ejahar, Tezpur P.S Case No. 2538 of 2017 under section-143/365/511/294/506 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-448/294/506 of I.P.C against the accused person.

CHARGE & TRIAL

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

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused person examined the informant-cum-victim of this case. Considering the testimony of the informant, prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Examination of accused person under section-313 of Cr.P.C is dispensed with as from the testimony of the informant-cum-victim nothing implicating disclosed against the accused person.

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 13.12.2017 at about 8 PM at a place called Baithabhanga under Tezpur PS, the FIR named accused person entered into the house of informant named Sri Sadananda Hazarika with intent to commit an offence

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and thereby committed an offence punishable under section-448 of IPC?

(ii) Whether the accused person on the same date, time and place scolded the informant using filthy languages and thereby committed an offence punishable u/s-294 of IPC?

(iii) Whether on the same date, time and place the accused person committed criminal intimidation by threatening the informant with dear consequences of his life and thereby committed an offence punishable u/s-506 IPC?

DECISION, DECISION AND THE REASON THEREOF:

7. In this case, prosecution side has got the burden of prove that on the date of alleged incident at about 8 PM, accused named Md. Nur Islam took him to the house of one Sri Bijoy Orang and when he asked the accused as to why accused took him to the house of said Sri Bijoy Orang, then he asked him as to why he did not provide the scholarship to his son. It is also alleged that thereafter, the accused illegally entered into his house and started abusing him with filthy languages and also threatened him to kill. In this case prosecution side to prove the case examined only the informant–cum-victim of this case. I have carefully travelled through the testimony of the prosecution witness in the backdrop of entire prosecution case and it finds:-
8. PW-1, Sri Sadananda Hazarika being the informant–cum-victim of this case deposed before this court that he knows the accused person of this case. He further deposed that the incident took place around 3-4 years back one day at about 9 AM. It is also deposed that on the day of incident, he had an altercation with the accused person over the matter of scholarship and due to misunderstanding he lodged the ejahar against the accused person. Now, he does not want to proceed further against the accused person. He identified his ejahar as Ext-1 wherein he put his signature as Ext-1(1).
9. Hence, it apparently appears before this court that PW-1 being the informant–cum-victim of this case contradicted the entire contentions of the ejahar by way

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of testifying that he had an altercation with the accused person and due to misunderstanding he lodged the instant case against the accused person. PW-1 simply deposed before this court that now he does not want to proceed further against the accused person.

10. To sum up the testimony of the informant-cum-victim, it reveals before this court that the informant-cum-victim appears to be contradictory with the entire contention of the ejahar and his testimony cannot be relied upon.
11. 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 person, named, Md. Nur Islam beyond reasonable doubt and as such the accused is acquitted from the charges u/s-448/294/506 of IPC and sets at liberty. Surety is extended for six months in view of section-437A of Cr PC.
12. Judgment is pronounced in the open court, which is given under my hand and seal of this court on 09th day of February, 2021.

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

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ANNEXURE

1. Witnesses for Prosecution:-

PW-1:- Sri Sadananda Hazarika, the Informant

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

Ext-1(1):- Signature of PW-1

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur