

**P.R No-1278 of 2019**  
**(State of Assam Vs Sri Bubuli Saikia)**

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

**P. R. Case No. 1278 of 2019**

Under section-447/294/323 of I.P.C

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

State of Assam

-Vs-

Sri Bubuli Saikia

S/O:- Late Dulal Saikia

R/O:- Tumuki

P/S:- Tezpur

Dist:-Sonitpur, Assam .....Accused Person

**Advocate appeared:**

Mr. Niranjana Saikia, Asst. P.P..... For the State

Mr. P.C. Sharma & Ors, Ld. Advocates..... For the accused person

Evidence recorded on	:- 05.02.2021
Date of Statement of defence	:- 05.02.2021
Argument heard on	:- 05.02.2021
Judgment delivered on	:- 05.02.2021

**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 06.05.2019 one Sri Tulai Sut lodged an ejarah before the O/C of Tezpur P.S through I/C of Bihaguri Police Outpost, alleging inter alia that on the said date at about 10:30 AM, while he was going towards his neighbour's house named Sri Babul Nath for some personal work, the FIR named accused illegally entered into the house of said Babul Nath and without any reason started abusing him with filthy languages and physically assaulted him by way of giving blows on his face and due to that he sustained injuries.

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**"INVESTIGATION"**

2. On receipt of the ejahar, Tezpur P.S Case No. 766 of 2019 u/s-447/294/323 of I.P.C was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s-447/294/323 of I.P.C against the above-named 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, charge of offence u/s-447/294/323 of I.P.C. was 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 only the informant-cum-victim in support of this case. Considering the testimony of the informant-cum-victim, 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 PW-1 nothing implicating disclosed against the accused.

**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 06.05.2019 at about 10:30 AM at a place called Tumuki under Tezpur PS, the accused person committed criminal trespass by entering into the house of one Babul Nath and thereby committed an offence punishable under section-447 of IPC?
- (ii) Whether the accused person on the same date, time and place uttered obscene words and language towards the informant and thereby committed an offence punishable under section-294 of I.P.C?

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(iii) Whether the accused person on the same date, time and place, voluntarily caused simple hurt by way of beating the informant named Tulai Sut and thereby committed an offence punishable u/s 323 of IPC?

**DECISION AND THE REASONS THEREON:**

7. The informant in his ejahar opposed that on the date of alleged incident at about 10:30 AM, the accused person illegally entered into the house of one Babul Nath and started abusing him with filthy languages without any reason and also physically assaulted him and due to that he sustained injury upon his body. 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 informant-cum-victim in the backdrop of entire prosecution case and it finds:-
8. PW-1, Sri Tulai Sut being the informant-cum-victim of this case deposed before this court that he knows the accused person of this case. He deposed that around one year back one day in between 10:30 AM to 11 AM he had an altercation with the accused person and due to misunderstanding, he lodged the ejahar against the accused person. He identified the ejahar as Ext-1 and Ext-1(1) is his signature. He admitted that now, he does not want to proceed with the case further against the accused person and therefore, he does not have any objection if the accused person is acquitted from this case.
9. Hence, it apparently appears before this court that the PW-1 being the informant-cum-victim of this case contradicted the entire contentions of the ejahar by way of testifying that he had an altercation with the accused person and due to misunderstanding he lodged the instant case and now he does not want to proceed with this case against the accused person. He admitted that he does not have any objection, if the accused person is acquitted from this case.
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.

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11. In view of the above evidence on record, I am of the opinion that prosecution has failed to prove the charge against the accused person beyond reasonable doubt and as such the accused person is acquitted from the charges u/s-447/294/323 of IPC and sets at liberty. Surety is extended for six months in view of section 437A of Cr PC.
12. Accordingly, the case is disposed of. Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 05<sup>th</sup> day of February, 2021 at Tezpur.

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

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**ANNEXURE**

**1. Witnesses for Prosecution:-**

PW-1:- Sri Tulai Sut, the Informant-cum-Victim

**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