

**P.R No-236 of 2019**  
**(State of Assam Vs Md. Nur Islam)**

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

**P. R. Case No. 236 of 2019**

Under section-447/341/294/352 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 Asamullah

R/O:- Baithabhanga

P/S:- Tezpur

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

**Advocate appeared:**

Mrs. Gitali Das, Asst. P.P..... For the State

Mrs. Anjali Kalita, Ld. Advocate..... 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 Bijoy Orang 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 7 PM, the accused named Nur Islam along with others without any reason illegally entered into his house and pushed him. It is also stated that the accused person tried to take his motor cycle and when he asked the accused, the accused told him that he did not provide any government goods to them. It is further stated that the

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accused person also threatened him to assault if he does not ask him before doing any work in their area.

**"INVESTIGATION"**

2. On receipt of the ejahar, Tezpur P.S Case No. 2537 of 2017 under section-143/352/365/511/323/506 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-447/341/294/352 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-447/341/294/352 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 7 PM at a place called Baithabhanga under Tezpur PS, the accused person illegally entered into the house of informant named Sri Bijoy Orang with intent to commit an offence and thereby committed an offence punishable under section-447 of IPC?

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- (ii) Whether the accused person on the same date, time and place wrongfully restrained the informant to commit an offence and thereby committed an offence punishable u/s-341 of IPC?
- (iii) 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?
- (iv) Whether on the same date, time and place the accused person used criminal force upon the victim, named, Sri Bijoy Orang with intend to assault him and thereby committed an offence punishable u/s-352 of 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 7 PM, the accused named Nur Islam along with others without any reason illegally entered into his house and pushed him and also tried to take his motor cycle and when he asked the accused, the accused told him that he did not provide any government goods to them. It is further stated that the accused person also threatened him to assault if he does not ask him before doing any work in their area. 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 Bijoy Orang 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 one year back and on the date of alleged incident, one day at about 7 PM, when the accused went to his house he had an altercation with the accused over some dispute 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).

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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 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 accused is acquitted from the charges u/s-447/341/294/352 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 09<sup>th</sup> 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 Bijoy Orang, 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