

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS AT SONITPUR,
TEZPUR**

PRESENT: DARSHANA NATH, AJS, Tezpur, Sonitpur

PR CASE NO: 1303/18

U/S 447/352/294/34 IPC

STATE

VS.

Md. Abdul Hamid & Ors

FOR PROSECUTION: Smti. Niva Devi

FOR THE ACCUSED: Sri Uttam Kr. Dhakal

Sri Debashish Borah

EVIDENCE RECORDED ON : 11/01/2022

JUDGEMENT DELIVERED ON: 11/01/2022

JUDGMENT

1. The accused persons Afajul Islam, Abdul Hamid and Bimala Begum stood trial for offences punishable under Sections 447/352/294/34 of Indian Penal Code (hereinafter IPC).

Information and Investigation

2. The genesis of this case has its roots with the lodging of Ejahar by informant Md. Rafijuddin on 12/05/2018 wherein he stated that on the same day at 11 am, the accused persons fought with the informant's wife Majeda Khatoon and injured both the informant and his wife.
3. The Ejahar was registered as Tezpur P.S Case no 954/18 u/s 447/325/341 IPC. The police after investigation submitted charge sheet against the accused persons under section 447/352/294/34 IPC.

Trial

4. Cognizance was taken of the charge sheeted offences and processes were issued upon which the accused persons appeared and copy of the relevant documents were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as CrPC). Particulars of offences are explained to the accused persons to which they pleaded not guilty and claimed to be tried.
5. In this case, the prosecution has examined the informant as PW-1 and victim as PW2. PW1 stated that the victim is his wife. He stated that there was a fight among the victim and the accused persons on that very day. But now the matter is amicably settled among them.
6. PW-2 also stated that there was misunderstanding between her and accused persons. But at present, the dispute is settled among them.
7. Considering testimony of the informant and victim, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused persons u/s 313 CrPC dispensed with as the prosecution did not adduce any incriminating evidence against them.
8. After hearing the learned Counsel of both sides and after perusal of the case record, I do hereby frame the following points of determination.

POINTS FOR DETERMINATION

- a) **Whether the accused persons in furtherance of common intention committed criminal trespass and thereby committed offence u/s 447/34 IPC?**
- b) **Whether the accused persons in furtherance of common intention used criminal force to the informant and victim and thereby committed offence u/s 352/34 IPC?**
- c) **Whether the accused persons in furtherance of common intention used obscene words to the informant and victim in public place and thereby committed offence u/s 294/34 IPC?**

PROSECUTION EVIDENCE

Evidence of the informant

9. PW1 is the informant. He stated that the victim is his wife and there was a fight among the victim and the accused persons on that very day. But now the matter is amicably settled among them. Hence, he does not wish to continue with the case and he has no objection even if the accused persons are acquitted.
10. PW2 stated that there was misunderstanding between her and accused persons. But at present, the dispute has already been settled among them.
11. The defence declined cross examination of PWs.

DISCUSSIONS, DECISIONS AND REASONS THEREOF

12. Upon a perusal of the evidence, it is clear that the informant in this case does not wish to proceed with the case, as the case was lodged due to misunderstanding but now the matter has been resolved among the two parties amicably and they have no issue if the accused persons are acquitted of the charges brought against them.
13. As such the prosecution has failed to prove that the accused persons have committed the offences u/s 447/352/294/34 IPC beyond reasonable doubt.

ORDER

14. In light of the above, it is held that the prosecution has failed to prove the case U/S 447/352/294/34 IPC against the accused persons Afajul Islam, Abdul Hamid and Bimala Begum beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, their bail bonds shall remain in force for a period of next 6(six) months as provided by section 437A CrPC.

Given in my hand and under the seal of this court on this the 11th day of January 2022.

Typed by Me:

Smti. Darshana Nath

Judicial Magistrate First Class, Tezpur

APPENDIX

Prosecution Witness:

PW-1: Md. Rafizuddin

PW2: Majeda Khatoon

Defence Witness:

NIL

Prosecution Exhibits: Ext 1: FIR

Ext 1(1): Signature of PW1

Defence Exhibits: NIL

Judicial Magistrate First Class, Tezpur.