

**APPENDIX -12**

<p>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR</p> <p>Present: <b>Smt. Priyanka Saikia, JMFC</b></p> <p>(Date of the Judgment)</p> <p><b>07-06-2022</b></p> <p><b>(CASE NO- P.R. 820/2022)</b></p> <p>(Details of FIR/Crime and Police Station)</p>	
Complainant	State of Assam or Smti Mousami Sultana
Represented By	Smti. Bandhana Boro, Learned APP
Accused persons	<p>1. Md. Khairul Islam S/o- Lt. Abdul Mazid R/o- Amolapam P.S.- Tezpur District- Sonitpur</p> <p>2. Sahar Banu W/O- Khairul Islam R/o- Amolapam P.S- Tezpur Dist- Sonitpur.</p>
Represented by	Adv. K. Kalita

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Date of offence	02-03-2022
Date of FIR	12-03-2020
Date of charge sheet	31-05-2020
Date of charge frame	NIL
Date of commencement of evidence	07-06-2022
Date on which judgment is reserved	07-06-2022
Date of judgment	07-06-2022
Date of the sentencing order, if any	NIL

**Accused Details**

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 438, Cr.P.C.
A-1	Md. Khairul Islam	NIL	22-11-2021	Sections 294/506	Acquitted	NIL	NIL
A-2	Sahar Banu	NIL	22-11-2021	Sections 294/506	Acquitted	NIL	NIL

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**LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**

**A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Maushumi Sultana	Informant

**B. Defence Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**C. Court Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Ext. 1	Ejahaar
2	Ext. 1(1)	Signature

**B. Defence:**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**C. Court Exhibits:**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**D. Material Objects**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**J U D G M E N T**

1. The informant, Smti Mousumi Sultana had lodged the ejahar in this case on 11.03.2020 alleging that informant was a married woman, having one girl child. The previous day of filing Ejahar, when informant went to accused persons house to search her husband, the accused persons started abusing her with filthy language and assaulted her and tear her cloths and dragged her by holding her haie in the middle of the road and snatched her ear ring and therefore informant sustained injuries. The informant further stated that the accused persons illegally occupied the land and the informant had to live in rented room. Hence this case.
2. Upon receipt of the ejahar the police registered Tezpur Police Station case no: 480/2020 under Section 294, 354(B), 394 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against the A-1 & A-2& A-2 under Section 294, 506 of IPC.
3. A-1 & A-2& A-2 entered trial and after furnishing the copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against them, charge under Section 294, 506 of IPC was framed and was explained to them to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant, Smti Mousumi Sultana as PW-1 and also exhibited the ejahar. The statement of A-1 & A-2 under Section 313 of CrPC was dispensed with due to the lack of incriminating materials against them. Defence declined to adduce evidence. I have heard the arguments for both sides.
5. Upon hearing and on perusal of the case record I have framed the following points for determination-
  - i. Whether 11.03.2020, A-1 & A-2 uttered obscene act and word to the informant and thereby committed an offence punishable under Section 294 of Indian Penal Code?
  - ii. Whether 11.03.2020, A-1 & A-2 threatened the informant to kill her and thereby committed an offence punishable under Section 506 of Indian Penal Code?

**DISCUSSION, REASONS AND DECISION**

**THEREOF:**

6. In the course of the evidence adduced by the prosecution, it emerged that the informant, Smti Mousumi Sultana, who was examined as PW-1 has not supported the prosecution story that she has lodged this Ejahar for some quarrelled with A-1 & A-2. She further stated now the matter is amicably

settled among them. She stated that she does not want to proceed with the case and if A-1 & A-2 are acquitted from the case she does not have any objection. PW-1 has proved her F.I.R. as Ext-P.1/PW-1 and her signature therein as Ext-P.1(1)/PW-1.

- 7.** In the given case, PW-1 categorically deposes that the Ejahar was lodged for some family matters and that at present, the matter is amicably settled; she holds no grievance against A-1 & A-2. Therefore, there is no specific incriminating material against A-1 & A-2 in the testimony of PW-1.
- 8.** Since the informant who launched the prosecution of A-1 & A-2 has not incriminated A-1 & A-2, the case of the prosecution has fallen flat on its face. Therefore, upon perusal of the evidence on record, the Court has reached the conclusion that Prosecution has not been able to prove its case against A-1 & A-2 under Section 294, 506 of IPC.

### **ORDER**

**29.** Considering the discussions made above and after all deliberations, it can be safely presumed that the prosecution has failed to drive home the guilt of A-1 & A-2. Hence, it is held that the prosecution has failed to prove its case and A-1 & A-2 are acquitted of the offence under Section 294, 506 of the Indian Penal Code and set at liberty forthwith.

**30.** The bail bond of the accused persons shall remain in force for 6 (six) months from today by virtue of Sec. 437(A) Cr.P.C.

Given under my hand and seal of this court on this 7<sup>th</sup> day of June, 2022 at Sonitpur, Assam.

(Priyanka Saikia, AJS)  
Judicial Magistrate 1<sup>st</sup> Class  
Sonitpur, Tezpur