

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE  
TEZPUR. SONITPUR.**

**Present:** Dr. M Baruah  
Chief Judicial Magistrate,  
Sonitpur, Tezpur.

**G. R. Case No. 1640/2008**  
**U/s.294/324/427 IPC**

State

Vs

1. Anita Chakraborty  
..... Accused person

**Appearance:**

Counsel for the State : Sri N. Das.  
Counsel for the defense : Sri T. Das.  
Charge framed on : 21-12-2009.  
Evidence recorded on : 7-5-10,22-9-10,9-12-10,5-5-12,  
4-9-12,21-8-13.  
Argument heard on : 13-3-2014.  
Judgment delivered on : 10-4-2014.

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

1. The prosecution's case in brief is that informant Kamini Deka filed an ejahar before the I/C, Chariduar OP on 19-9-08 stating that on 16-9-08 at about 3 p.m. when some little boys were catching fish in the PWD drain, accused Anita Chakraborty abused them by using slang language. When the informant obstructed her, the accused caught hold her ear and also torn off her wearing apparel. The accused also bite on the left hand of the informant causing grievous injuries on her person.

2. Upon receive of the ejahar, the I/C, Chariduar OP made a GDE and forwarded the same to the O/C, Rangapara PS for registering a case. Accordingly, the O/C Rangapara PS registered a case being Rangapara P.S. case No. 167/08 and started investigation.

After completion of investigation, police filed charge sheet against the accused Anita Chakraborty u/s 294/323/427 IPC.

3. The accused person appeared before the Court and faced trial. Copy of the prosecution documents were furnished to the accused person. After hearing learned counsel for both sides, charge u/s 294/324/427 IPC was framed and its particulars were read over and explained to the accused person. The accused person pleaded not guilty and claimed to be tried.

4. Prosecution adduced evidence of seven witnesses including the MO and IO of this case. After close of prosecution evidence statement of the accused person U/s.313 Cr.P.C. was recorded. Plea of the accused is total denial and adduced no evidence in her defence.

5. **POINTS FOR DETERMINATION**

- (i) Whether the accused person, on 16-9-08 at about 3 p.m. abused the little children who were catching fish in the PWD drain, using obscene words and language to the annoyance of others?
- (iii) Whether the accused person, on 16-9-08 at about 3 p.m. voluntarily caused hurt to Kamini Deka by means of teeth?
- (iv) Whether the accused person, on 16-9-08 at about 3 p.m. committed mischief by causing wrongful loss or damage to the property of Kamini Deka ?

Heard argument of the learned counsel for the prosecution and the defense. Peruse the materials on record.

6. **DECISION, DISCUSSION AND REASONS THEREOF**

PW-1 Smti Kamani Deka deposed that on 16<sup>th</sup> September, 2008 at about 3.00pm two boys were fishing in a P W D drain. One of the boys is Nitul Nath. Then the accused asked Nitul not to do fishing in the drain and tried to beat him by a stick. Then she restrained the accused from beating Nitul and snatched the stick. The accused then

caught hold of her hair and when she tried to free the hand from her hair, the accused bite on her left hand. The nearby people informed her daughter and they took her to Chariduar hospital for treatment. The doctor asked them to go to the police station. They came to police station and then again they went to the said hospital. She had to take treatment for three months.

The PW-2 Nitul Nath corroborated the PW-1 and stated that he and Biki were fishing in a Govt. drain and the accused them not to do fishing. Then the accused came to beat them. The PW-1 gave obstruction to accused. The accused bit on the left hand of the PW-1. Blood oozed out of it. During cross examination he stated that the path to the residence of the accused becomes muddy and so the accused asked them not to do fishing. The accused tried to beat them by a lathi but could not beat them.

PW-3 Smti Moni Deka deposed that the incident occurred on 16-9-08 at about 3.00pm. She stated that the accused was abusing the boys who were fishing in the drain. Then her mother objected and she had an altercation with the accused. Thereafter the accused tried to beat Nitul by a bamboo stick. When her mother obstructed, the accused bit on the left hand of her mother. Her mother became semi unconscious. During cross examination she stated that at the time of occurrence she was watching T V and hearing the hulla she came out. She heard about the incident from the nearby people and her mother.

PW-4 Smti Radha Gurung deposed that on the day of occurrence in between 3.00 to 3.30 pm she heard hue and cry and came out, she saw the informant and the accused were scuffling. She intervened and dispersed them. She saw blood oozing from the right hand of the informant.

PW-5 Smti Mamata Sharma deposed that both parties are her neighbor. At the time of occurrence she hearing hulla, came out from her residence. She saw the accused and the informant scuffling. She and PW-4 intervened. She saw blood oozing from the hand of informant. The informant told her that the accused caused teeth bite.

PW-6 Dr. Saurav Goswami deposed that on 16-9-08 at about 4.14pm he examined one Kamini Deka female age 42 years, on police requisition. He found lacerated wound on the ventral surface of

the left forearm approximately 2 ½ inch in length and 0.5 cm depth. Semi circular in shape with serrated margins. In his opinion the injuries was caused by blunt object and was simple. During cross examination he stated that the injuries may also occur on falling over hard substance and no stitches were applied on the injury.

PW-7 Sri Basanta Kumar Bora deposed that on 19-9-08 he was at Chariduar O P working as an AS I of Police. The I/C made a G D Entry on an ejahar filed by Kamini Deka endorsed him to make preliminary investigation. He met the informant in the outpost and recorded her statement. He stated that on 16-9-08 the informant came to the Police Outpost and she was medically examined on a requisition. He collected the medical report and recorded statement of the witnesses. He arrested the accused and allowed her on bail. Later on he filed charge sheet against the accused. Ext-4 is the charge sheet and Ext-4(1) is his signature. Ext-2 is the ejahar and Ext-2(1) is the signature on I/C Chariduar O P.

During cross examination he stated that the PW-1 did not stated before him that she received seven stitches and also that the accused tried to beat Nitul by a firewood. He denied receiving two ejahars.

7. From the materials on record, I found that the averments made by the PW-1 who is the informant of this case has been corroborated by the PW-2. PW-2 stated that he and Biki were fishing in the govt. drain and the accused was asking them not to do so. The accused came to beat him by a stick to which the informant objected and obstructed the accused. Then there was scuffle between the accused and the informant. The informant was bitten by the accused on her left hand. The PW-4 and PW-5 have corroborated the fact that they saw the accused and informant scuffling and they intervened and dispersed them. They saw blood oozing from the hand of informant. PW-3 came to the place of occurrence after the incident and found injuries on her mother's hand. The PW-6 has found lacerated injury on the left hand of the informant having Semi circular in shape with serrated margins. This finding proves that the injury was caused by teeth.

The witnesses are found to be reliable. There is no such material in the cross examination of the witnesses that would undermine the witnesses. The materials on record clearly show that the accused and the informant had a scuffle and the accused caused injuries on the left hand of the informant by biting. The injuries are found to be simple in nature. I found that the prosecution has been able to prove that the accused caused hurt to the informant by biting on her left hand. Therefore the prosecution has been able to prove the offence u/s 323 IPC against the accused beyond doubt.

Thought the witnesses stated that the accused at first abused Nitul and another boy for fishing in the P W D drain, but there is no such material that the accused used obscene words in the public place. There is no material that the accused caused mischief by damaging the property of the informant. Therefore I found that the prosecution has failed to prove to the offence u/s 427 / 294 IPC against the accused.

8. The accused is therefore convicted for the offence u/s 323 IPC. Considering the age of the accused and the act committed, I found it not proper to allow the accused the benefit of the Probation Of Offenders Act. Considering the nature of injury and the circumstance leading to the occurrence of the incident, I found it proper to be lenient in awarding the sentence. The accused is therefore sentenced to pay a fine of Rs. 1000/- (Rupees one thousand). In default of payment of fine, the accused shall undergo Simple Imprisonment for one month. The fine amount if paid is to be given to the informant as compensation.

9. The copy of the judgment is to be given free of cost to the accused.

10. The Judgment is prepared and typed by me.

11. Set my hand and seal of this Court on this the 10th day of April, 2014.

(Manash Baruah)  
Chief Judicial Magistrate,  
Sonitpur, Tezpur.