

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

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

G. R. Case No. 1810/2011
U/s. 341/294/323 IPC

State

Vs

1. Puspa Kanta Das

..... Accused person

Appearance:

Counsel for the State : Sri N. Das.

Counsel for the defense : Sri B. Borthakur.

Offence explained on : 14-5-2012.

Evidence recorded on : 6-11-13,25-3-14.

Argument heard on : 28-4-2014.

Judgment delivered on : 28-4-2014.

J U D G M E N T

The prosecution's case in brief is that the informant Jibon Chandra Das filed an ejahar before the O/C, Tezpur PS on 25-8-11 stating that on that day at about 8:10 p.m. when his brother went to collect revenue from Morabharali Daily Market, a group of Puspa Das abused his brother stating to be dacoit and member of Congress and also snatched away Rs.5000.00 from his pocket. Thereafter, a quarrel took place with his brother Manjit Das and accused Puspa Das also assaulted his brother on his leg by a lathi causing injuries on his person. Receiving phone calls from his brother they immediately rushed to the market. The accused also chased them with a dao to cause injury. The informant inform police over phone. Police arrived at the place of occurrence but the accused fled away from there.

2. Upon receive of the ejahar, the O/C, Tezpur PS registered a case being Tezpur P.S. case No. 899/11 and started investigation. After completion of investigation, police filed charge sheet against accused Puspa Kanta Das u/s 341/294/ 323 IPC.

3. The accused person appeared before the Court and faced trial. Copy of the prosecution documents were furnished to the accused persons. After hearing learned counsel for both sides, particulars of offence u/s 341/ 294/ 323 IPC were explained to the accused person. The accused person pleaded not guilty and claimed to be tried.

4. Prosecution adduced evidence of two material witnesses, i.e. the informant and victim of this case. As the material witnesses i.e. the informant and victim have not supported the prosecution case, hence, examining the remaining witnesses no fruitful purpose would be served. Hence, prosecution evidence is closed. Considering the materials in the evidence on record against the accused, recording the statement of the accused U/s.313 Cr.P.C. dispensed with.

5. **POINTS FOR DETERMINATION**

- (i) Whether the accused person, on 25-8-11 at about 8:10 p.m. wrongfully restrained Manjit Das?
- (ii) Whether the accused person, on 25-8-11 at about 8:10 p.m. voluntarily caused hurt to Manjit Das?
- (iii) Whether the accused person, on 25-8-11 at about 8:10 p.m. abused Manjit Das by using obscene words and language to the annoyance of others?

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 Sri Jiban Ch. Das deposed that he was the mahaldar of the Mahabhairab Daily Market and there is a shop in the name of his brother. The accused also has a shop. In the year 2011 the accused had a dispute with other persons in his shop. At that time his brother Manjit Das went to the shop of the accused to collect revenue. When his brother asked not to fight, then the accused had altercation with his brother and there was pushing from either side. He was present in the market. He called the police and police took both the parties to the Tezpur police station. He filed the ejahar. Ext-1 is the ejahar and Ext-1(1) is his signature. The accused also filed a case against them.

During cross examination he stated that they amicably settled the dispute and so he does not want to proceed with the case.

PW-2 Sri Manjit Das deposed that he had an altercation with the accused at Mahabhairab Daily market. There was push and pull and he fell down. For that reason his brother filed the ejahar.

During cross examination he stated that they have amicably settled the case. He does not want to proceed with the case. He has no objection if the accused is acquitted.

7. From the evidence of the informant and the victim, I found that the witnesses did not say that the accused had abused the victim using obscene words at a public place. The victim (PW-2) stated that there was altercation between him and the accused. There was also push and pull. So it is not clear that the accused was the aggressor. On the other hand it is found that the PW-2 went to the shop of the accused. There is no material that the accused had restrained the PW-2. The witnesses did not say that the accused had voluntarily caused hurt to the PW-2. It is also found that the material witnesses have stated that the matter has been amicably settled between the parties and they have no interest to proceed with the case. The prosecution has filed to prove the case against the accused beyond doubt.

O R D E R

8. Considering the facts and circumstances of this case, I found that the prosecution has failed to prove the case against the accused person u/s 341/294/323 IPC beyond reasonable doubt. As a result the accused person is acquitted and set at liberty. His bail bond stands cancelled.

9. The judgment is prepared and typed by me.

10. Set my hand and seal of this Court on this the 28th day of April, 2014.

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