

APPENDIX -12

<p style="text-align: center;">IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR</p> <p style="text-align: center;">Present: Smt. Priyanka Saikia, JMFC</p> <p style="text-align: center;">(Date of the Judgment)</p> <p style="text-align: center;">23-06-2022</p> <p style="text-align: center;">(CASE NO- G.R. 2200/2017)</p> <p style="text-align: center;">(Details of FIR/Crime and Police Station)</p>	
Complainant	State of Assam or Smti Barnali Saikia Borah
Represented By	Smti. Bandhana Boro, Learned APP
Accused person	Sri Raju Dutta S/o- Manindra Dutta R/o- Mahabhairab Hala P.S.- Tezpur Dist- Sonitpur, Assam
Represented by	Sri S.K. Singh

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Date of offence	11-06-2017
Date of FIR	14-06-2017
Date of charge sheet	30-06-2017
Date of offence explanation	09-10-2018
Date of commencement of evidence	23-06-2022
Date on which judgment is reserved	23-06-2022
Date of judgment	23-06-2022
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	Sri Raju Dutta	NIL	09-08-18	Sections 341, 294, 325, 507 IPC	Acquitted	NIL	NIL

APPENDIX -14**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	Smti Barnali Saikia Borah	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:

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

		WITNESS, OTHER WITNESS)
NIL	NIL	NIL

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1	Ext. 1	Ejahaar
2	Ext.1(1)	Signature

B. Defence:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

C. Court Exhibits:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

D. Material Objects

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

JUDGMENT

1. The informant, Smti Barnali Saikia Borah had lodged the ejahar in this case on 12-06-2017 alleging that she knew the A-1 from three years and thereafter she and A-1 talked with each other over phone as friends. From some days she did not talk with him, therefore A-1 threatened to kill her and her son and told her he would hit them by car. On 11.05.2017 at about 10.00 P.M. A-1 called her over phone and asked to come out from her house. When she came out from her house near the gate, A-1 attacked her with an iron rod on her hands and tried to strangle her neck and snatched her gold chain. For that she sustained injuries. A-1 also published obscene words against her in social media. Hence, this case.

2. Upon receipt of the ejahar, the police registered Tezpur Police Station case no: 1143/2017 under Section 507, 325, 379 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 under **Sections 341, 294, 325, 507 of IPC.**

3. A-1 entered trial and after furnishing the with the copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against the accused persons, offence under Sections 341, 294, 325, 507 of IPC was explained to them to which he pleaded not guilty and claimed to be tried and accordingly

a formal charge under the aforesaid Sections is framed against him.

4. The prosecution examined the informant, Smti Barnali Saikia Borah as PW-1 and also exhibited the ejahar. The statement of the A-1 under Section 313 of Cr.P.C 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, on 11.05.2017 at about 10.00 P.M. A-1 wrongfully restrained the informant and thereby committed an offence punishable under Sections 341 of Indian Penal Code?

(II) Whether, on 11.05.2017 at about 10.00 P.M. A-1, uttered obscene act and word to the informant and to his family and thereby committed an offence punishable under Section 294 of Indian Penal Code?

(III) Whether, on 11.05.2017 at about 10.00 P.M. A-1, caused to voluntarily causes grievous hurt to the informant by Iron rod and thereby committed an offence punishable under Section 325 of Indian Penal Code?

(IV) Whether, on 11.05.2017 at about 10.00 P.M. A-1, committed Criminal intimidation by an anonymous

communication to the informant along with her son and thereby committed an offence punishable under Section 507 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/PW-1, Smti Barnali Saikia Borah, who was examined as PW-1 has stated that there was an altercation with A-1 and therefore she got injured and the instant case was filed due to misunderstanding. She further stated that the matter was amicable settle between them and she has no grudge against them. She does not want to proceed with the case and if the accused person is 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 his signature therein as Ext. 1(1).

7. In the given case, PW-1 have categorically deposes that the Ejahar was lodged out of misunderstanding and that at present, she does not want to proceed with this case. Therefore, there is no specific incriminating material against the A-1 in the testimony of PW-1.

8. Since the informant who launched the prosecution of the accused person has not incriminated the accused person, 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 the accused persons.

ORDER

9. Situated thus, A-1 are acquitted of the offence under Sections 341, 294, 325, 507 of IPC and set at liberty forthwith.

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

Given under my hand and seal of this court on this 23rd day of June, 2022 at Sonitpur, Assam.

(Priyanka Saikia, AJS)
Judicial Magistrate 1st Class
Sonitpur, Tezpur