

APPENDIX -12**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS****Present:** Smt. Darshana Nath, JMFC, SONITPUR, TEZPUR**[Date of the Judgment]**

24.06.2022

[GR Case No 1048 of 2016]

(Details of FIR/ Crime and Police Station)

COMPLAINANT :	STATE OF ASSAM OR Mustt. Hasnara Begum W/O- Md. M Islam Vill:- Ghoramara Pathar P.S- Dhekiajuli Dist:- Sonitpur, Assam
REPRESENTED BY	Smt. N. Devi, Ld. Addl. P.P
ACCUSED	Md. Zakir Hussain S/o- Late Ashmat Ali Vill- Ghoramara Pathar P.S- Dhekiajuli. Dist- Sonitpur, Assam.
REPRESENTED BY	Mr. Arabinda Das. 1 Page

APPENDIX -13

Date of Offence	08-04-2016
Date of FIR.	09-04-2016
Date of Charge-sheet	30-04-2016
Date of Offence explain	15-06-2022
Date of commencement of evidence	15-06-2022
Date on which judgment is reserved	Nil
Date of the Judgment	26-06-2022
Date of the Sentencing Order, if any	Nil

ACCUSED DETAILS:

Rank of the 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	Zakir Husain	Nil	Nil	294/323/ 427/34 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	Hasnara Begum	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)
Nil	Nil	Nil

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

Sr. No	Exhibit Number	Description
1	Exhibit P-1/PW1	FIR
2	Exhibit P-1(1)	Signature of PW 1

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

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

PRESENT: DARSHANA NATH, AJS, Tezpur, Sonitpur

GR CASE NO: 1048/16

U/S 294/323/427/34 IPC

STATE

VS.

Zakir Hussain and Others

FOR PROSECUTION: Smti. Niva Devi

FOR THE ACCUSED: Mr. Arabinda Das

EVIDENCE RECORDED ON : 15/06/2022

JUDGEMENT DELIVERED ON: 24/06/2022

JUDGMENT

1. The accused persons A1 and A2 stood trial for offences punishable under Sections 294/323/427/34 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 on 08/04/2016 wherein he stated that on that day at 2:00 pm, the accused persons verbally abused the informant and his wife

by using obscene words. The accused persons injured them with "lathi" and "Kuthar".

3. The Ejahar was registered as Dhekiajuli P.S Case no 204/16 u/s 294/323/427/34 IPC. The police after investigation submitted charge sheet against the accused persons under section 294/323/427/34 IPC.

Trial

4. Cognizance was taken of offences u/s 323/294/427/34 IPC 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 other witness as PW2. PW-1 stated that there was a fight between him and the accused persons on that very day. The informant out of anger filed the FIR against the accused persons. But now the matter is amicably settled among them.
6. PW-2 also stated that there was misunderstanding between the informant and accused persons. He does not know anything about the fight. At present, the dispute is settled among them.
7. Considering testimony of the informant and other witness, 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 was dispensed with as the prosecution did not adduce any incriminating evidence against them.
8. The court deemed it fit to file the case against accused A2 as she has already been declared as an absconder.

9. 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 caused mischief to the informant and thereby committed offence u/s 427/34 IPC?**

- b) Whether the accused persons in furtherance of common intention used obscene words to the informant in public place and thereby committed offence u/s 294/34 IPC?**

- c) Whether the accused persons in furtherance of common intention voluntarily caused hurt the informant and his wife and thereby committed offence u/s 323/34 IPC?**

PROSECUTION EVIDENCE

Evidence of the informant

- 10. PW1 is the informant. He stated that there was a fight among him 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.

- 11. PW2 stated that there was misunderstanding between him and accused persons. But at present, the dispute has already been settled among them.

12. In cross examination, both PW1 and PW2 stated that they have no objection if the accused persons are acquitted.

DISCUSSIONS, DECISIONS AND REASONS THEREOF

13. 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.
14. As such the prosecution has failed prove that the accused persons have committed the offences u/s 427/323/294/34 IPC beyond reasonable doubt.

ORDER

15. In light of the above, it is held that the prosecution has failed to prove the case U/S 323/294/34 IPC against the accused persons **A1** 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 24th day of June, 2022.

Typed by Me:

Smti. Darshana Nath

Judicial Magistrate First Class, Tezpur.

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	Hasnara Begum	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)
Nil	Nil	Nil

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

Sr. No	Exhibit Number	Description
1	Exhibit P-1/PW1	FIR
2	Exhibit P-1(1)	Signature of PW 1

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

Smti. Darshana Nath

Judicial Magistrate First Class, Tezpur