

IN THE COURT OF JMFC-20,
SONITPUR, TEZPUR

Present: **Shri Vishek Bhuyan,**
AJS

[Date of the Judgment]
03-09-2022

[GR Case No : 1048/2017]

(Details of FIR/ Crime and Police Station)

Complainant :	STATE OF ASSAM OR Md. Abdul Wahed Khan
REPRESENTED BY	Learned A.P.P Sri Niranjana Saikia
ACCUSED PERSONS	A1. Md. Anowar Hussain Khan S/o- Jaynal Abedin Khan A2. Tajjuddin Khan S/o- Abu Bakar Khan Both are resident of Vill- Bhojkhowa P.S- Tezpur, Sonitpur
REPRESENTED BY	Md. H. A Ansari

FORM B

Date of Offence	27.12.2016
Date of FIR.	22.03.2017
Date of Charge-sheet	30.04.2017
Date of offence explained	18.07.2022
Date of commencement of evidence	18.08.2022
Date on which judgment is reserved	23.08.2022
Date of the Judgment	03.09.2022
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.
	A1 Md. Anowar Hus-sain Khan	NA	31.10.2019	385/294/34	Acquitted	NIL	
	A2 Tajuddin Khan	NA	31.10.2019	385/294/34	Acquitted	NIL	

Form C**A. Prosecution**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Abdul Wahid Khan	Other witness (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	FIR
2	Exhibit P 1(1) and Exhibit P 1(2)	Signatures of informant

A. Defence:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Court Exhibits

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Material Objects:

Sr. No	Material Object Number	Description
NIL	NIL	NIL

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS**

TEZPUR, ASSAM

G.R CASE NO: 1048 OF 2017

U/Sec 385/294/34 of the Indian Penal Code

State of Assam

.....PROSECUTOR

-Vs-

A1 Md. Anowar Hussain Khan

S/o- Jaynal Abedin Khan

A2 Tajuddin Khan

S/o- Abu Bakar Khan

Both are resident of Vill- Bhojkhowa

P.S- Tezpur, Sonitpur

.....ACCUSED PERSONS

PRESENT: VISHEK BHUYAN, LL.M, AJS
JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR

FOR PROSECUTION: LD. APP. Sri Niranjan Saikia

FOR DEFENCE: Md. H. A Ansari

EVIDENCE RECORDED: 18.08.2022

ARGUMENTS HEARD ON: 18.08.2022

JUDGEMENT DELIVERED ON: 03.09.2022

JUDGMENT

1. The accused persons namely Md. Anowar Hussain Khan and Tajuddin Khan stood trial for offences punishable under Sections 385/294/34 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 Md. Abdul Wahed Khan is that the accused persons demanded Rs. 50,000/- and one motor cycle from him on 27.12.2016 and also threatened to kill him. Hence this case.
3. The Ejahar was received and registered as Tezpur P.S Case no. 530/2017 U/s 384/506/34 of IPC. The police after investigation submitted charge sheet against the accused persons under Sections 385/294/34 of IPC.

Trial

4. Cognizance was taken of the Charge sheeted offences and processes were issued upon which the accused persons appeared and copies of the relevant documents were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as Cr.P.C). The particulars of the offences were 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. Considering testimony of the informant, 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 Cr.P.C dispensed with as the prosecution did not adduce any implicating evidence against them.
6. 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

i) Whether the accused persons in furtherance of common intention on 27.12.2016 verbally abused the informant with obscene words to the

annoyance of public and thereby committed an offence punishable U/s 294/34 of IPC ?

ii) Whether the accused persons in furtherance of common intention on the same day put the informant in fear of death in order to extort Rs. 50,000/- and one motor cycle from him and thereby committed an offence punishable U/s 385/34 of IPC ?

PROSECUTION EVIDENCE
Evidence of the informant

7. **P.W 1 Abdul Wahid Khan** states that he is the informant and he knows the accused persons. The incident took place in 2017 regarding some land property due to misunderstanding. Presently the matter has been settled. **In the cross examination** he states that he has no objection if the accused persons are acquitted from the case.

DISCUSSIONS, DECISIONS AND REASONS
THEREOF

8. Upon perusal of the evidence it is seen that the case was lodged in due to some misunderstanding but since then the matter has been settled among them amicably and the

informant does not wish to proceed with the case. Further, the informant has no objection if the accused persons are acquitted from this case.

9. As such the prosecution has failed to prove that the accused persons have committed the offences under sections 385/294/34 of IPC beyond reasonable doubt.

ORDER

In light of the above, it is held that the prosecution has failed to prove the case U/s 385/294/34 of IPC against the accused persons namely Md. Anowar Hussain Khan and Tajuddin Khan beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, their bail bond shall remain in force for a period of next 6 (six) months as provided by section 437A Cr.P.C.

Given in my hand and under the seal of this court on this the 03rd day of September, 2022.

Typed by Me:

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur

APPENDIX

Prosecution Witness:

PW-1: Abdul Wahid Khan

Defence Witness:

NIL

Prosecution Exhibits:

Ext- P1:Ejahaar

Ext-P1(1) and Ext-P1(2): Signatures of the informant.

Defence Exhibits:

NIL

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur.