

APPENDIX -12

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR Present: Smt. Priyanka Saikia, JMFC (Date of the Judgment) 16-09-2022 (CASE NO- G.R. 2010/2017) (Details of FIR/Crime and Police Station)	
Complainant	State of Assam or Sri Kamal Saikia
Represented By	Smti. Bandhana Boro, Learned APP
Accused person	Sri Diganta Nath S/o- Late Rakha Kt Nath R/o- Murhateteli Saikia Chuburi P.S.- Tezpur Dist- Sonitpur, Assam
Represented by	Smt. S.R. Choudhury

APPENDIX -13

Date of offence	30-05-2017
Date of FIR	01-06-2017
Date of charge sheet	27-07-2017
Date of offence explanation	12-05-2022
Date of commencement of evidence	16-09-2022
Date on which judgment is reserved	16-09-2022
Date of judgment	16-09-2022
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 Diganta Nath	NIL	20-04-22	Section 447, 294, 323, 506 of IPC	Acquitted	NIL	NIL

APPENDIX -14**LIST OF PROSECUTION / DEFENSE / COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sri Kamal Saikia	Informant
PW2	Smti Popi Saikia	Other witness

B. Defense 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/ DEFENSE/ COURT EXHIBITS**A. Prosecution:**

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

B. Defense:

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, Sri Kamal Saikia had lodged the ejahar in this case on 31.05.2017 alleging that on 30.05.2017 at about 11.00 PM, the accused person had entered informant's boundary and started abusing him. The accused person chased to assault his daughter. When his wife came to bring him, he also assaulted her. The accused person threatened informant to dire consequence. Hence, this case.

2. Upon receipt of the ejahar, the police registered Tezpur Police Station case no: 1034/2017 under Section 447, 294, 506 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against accused person under Sections 447, 294, 323, 506 of IPC.

3. The accused person entered trial and after furnishing the copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against the accused person offence under Sections 447, 294, 323, 506 of IPC was explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant, Sri Kamal Saikia as PW-1 and Smti Popi Saikia as PW-2 and also exhibited the ejahar. The statement of the accused person under Section 313 of Cr.P.C was dispensed with due to the lack of incriminating materials against him. 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 30.05.2017 at about 11.00 PM, the accused person committed criminal trespass to the house of informant and thereby committed an offence punishable under Section 447 of Indian Penal Code?

(II) Whether on 30.05.2017 at about 11.00 PM, the accused person, uttered obscene act and word to the informant and thereby committed an offence punishable under Section 294 of Indian Penal Code?

(III) Whether on same date and time the accused person, committed voluntarily caused hurt to his daughter and thereby committed an offence punishable under Section 323 of Indian Penal Code?

(IV) Whether on same date and time the accused person, threatened the informant with dire consequences and thereby committed an offence punishable under Sec. 506 of IPC?

DISCUSSION, REASONS AND DECISION THEREOF:

6. In the course of the evidence adduced by the prosecution, it emerged that the informant, Sri Kamal Saikia as PW-1 and Smti Popi Saikia as PW-2 have stated that on 31.05.2017, there was a quarrel between the informant, his daughter with the accused person. They further stated that

the matter was amicably settled between them and they have no any grudge upon the accused person. Now they do not want to proceed with the case and if the accused person is acquitted from the case they have no any objection. PW-1 has proved his F.I.R. as Ext-1 and his signature therein as Ext. 1(i).

7. Since the informant and victim who launched the prosecution of the accused person have not incriminated the accused person, the case of the prosecution has fallen flat on its face. Hence, the points for determination are decided in the negative.

ORDER

8. Situated thus, accused person acquitted of the offence Sections 447, 294, 323, 506 of IPC and set at liberty forthwith.

9. The bail bond of the accused person 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 16th day of September, 2022 at Sonitpur, Assam.

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