

APPENDIX -12

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| <p>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR</p> <p>Present: Smt. Priyanka Saikia, JMFC</p> <p>(Date of the Judgment)</p> <p>19-11-2022</p> <p>(CASE NO- G.R. 2922/2016)</p> <p>(Details of FIR/Crime and Police Station)</p> | |
| Complainant | State of Assam or Smti Dipika Choudhury |
| Represented By | Smti. Bandana Baro, Learned APP |
| Accused persons | 1. Shri Sunanda Tamuli S/o-Late S.N. Tamuli 2. Smti Rupali Tamuli W/o- Shri Sunanda Tamuli Residence of Village Baruahchuburi, Dekargaon P.S.- Tezpur, Dist- Sonitpur, Assam |
| Represented by | Smt. R. Daimary |

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| Date of offence | 07-09-2016 |
| Date of FIR | 08-09-2016 |
| Date of charge sheet | 25-09-2016 |
| Date of charge frame | 27-03-2017 |
| Date of commencement of evidence | 19-11-2022 |
| Date on which judgment is reserved | 19-11-2022 |
| Date of judgment | 19-11-2022 |
| 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 Sunanda Tamuli | NIL | 10-08-17 | Section 341, 323, 34 of IPC | Acquitted | NIL | NIL |
| A-2 | Smti Rupali Tamuli | NIL | 10-08-17 | Section 341, 323, 34 of IPC | Abated | 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 | Smti Dipika Choudhury | Informant |

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 |

J U D G M E N T

1. The informant, Smti Dipika Choudhury had lodged the ejahar in this case on 07.09.2016 alleging that on today at about 08.00 A.M. when she went to accused persons house then, his wife assaulted her. Moreover, the accused persons along with another person had assaulted her by tree branches. Hence, this case.

2. Upon receipt of the ejahar, the police registered Tezpur Police Station case No: 1562/2016 under Section 325 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against the accused persons, Shri Sunanda Tamuli and Smti Rupali Tamuli under Sections 341, 323, 34 of IPC.

3. The accused persons entered trial and after furnishing the accused persons with the copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against them, charge under Sections 341, 323, 34 of IPC was framed and was explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant, Smti Dipika Choudhury as PW-1 and also exhibited the ejahar. The statement of the accused persons 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. During the course of trial accused Smti Rupali Bhuyan was expired and the case was abated against the deceased Smti Rupali Bhuyan. Therefore, I deem it fit to appreciate the evidence against the accused Dr. Sunanda Tamuli. 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 07.09.2016 at about 08.00 A.M. the accused persons in furtherance of common intention wrongfully restrained the informant and thereby committed an offence punishable under Sections 341, 34 of Indian Penal Code?

(II) Whether, the accused persons in furtherance of common intention at the same date and time, voluntarily caused hurt to the informant and thereby committed an offence punishable under Sections 323, 34 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, Smti Dipika Choudhury, who was examined as PW-1 did not support the prosecution story. Though she has mentioned a dispute with the accused person which prompted her to lodge the ejahar (Ext-1) but she has since reconciled with accused person and does not want to prosecute him further.

Further, she has added that she has no objection if the accused would acquit from the case. From the evidence of the prosecution witness, it appears that no incriminating material is available against the accused person. The parties are no longer at loggerheads with each other. The points for determination are, hence, decided in the negative. PW-1 has proved her F.I.R. as Ext-1 and his signature therein as Ext. 1(1).

ORDER

7. Situated thus, the accused person, Shri Sunanda Tamuli are acquitted of the offence under Sections 341, 323, 34 of IPC and set at liberty forthwith.

8. 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 19th day of November, 2022 at Sonitpur, Assam.

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