

APPENDIX -12

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR Present: Smt. Priyanka Saikia, JMFC (Date of the Judgment) 19-12-2022 (CASE NO- G.R. 2942/2017) (Details of FIR/Crime and Police Station)	
Complainant	State of Assam or Musstt. Marjina Begum
Represented By	Smti. Bandana Baro, Learned APP
Accused persons	1. Md. Jakaria S/o- Md. Nurul Islam 2. Md. Azizur Haque S/o- Md. Nurul Islam 3. Md. Nurul Islam S/o- Late Abdul Mazid 4. Md. Nazir Hussain S/o- Md. Nurul Islam All are residents of Bhojkhowa Chapori P.S.- Tezpur District- Sonitpur, Assam
Represented by	Babul Borthakur

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Date of offence	02-08-2017
Date of FIR	03-08-2017
Date of charge sheet	30-11-2017
Date of offence explanation	06-06-2022
Date of commencement of evidence	21-09-2022
Date on which judgment is reserved	09-12-2022
Date of judgment	19-12-2022
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	Md. Jakaria	NIL	06-06-22	Section 341, 352, 323, 294, 34 of IPC	Acquitted	NIL	NIL
A-2	Md. Azizur Haque	NIL	06-06-22	Section 341, 352, 323, 294, 34 of IPC	Acquitted	NIL	NIL
A-3	Md. Nurul Islam	NIL	06-06-22	Section 341, 352, 323, 294, 34 of IPC	Acquitted	NIL	NIL
A-4	Md. Nazir Hussain	NIL	06-06-22	Section 341, 352, 323, 294, 34 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	Wahed Ali	Other witness
PW2	Kulsuma Begum	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
NIL	NIL	NIL

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, Faruk Hussain had lodged the ejahar in this case on 03.08.2017 alleging that on the 02.08.2017 at about 05.00 P.M. Md. Nazir invited informant and his parents and his sister and when they came out from there, the accused persons without any reason assaulted us by bamboo stick and injured them. They also pulled informant's hair and pushed her on the ground and tried to torn her clothes. They even abusing her with filthy languages and they also threatened them with dire consequence. Hence, this case.

2. Upon receipt of the ejahar, the police registered Tezpur Police Station case no: 1535/2017 under Section 325, 354 (B), 294, 34 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against the accused persons under **Sections 341, 352, 323, 294, 34 of IPC.**

3. The accused persons 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 them, offence under Sections 341, 352, 323, 294, 34 of IPC was explained to them to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined two witnesses. 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.

5. Upon hearing and on perusal of the case record I have framed the following points for determination-

(I) Whether, on 03.08.2017 at about 05.00 A.M. accused persons in furtherance of common intention wrongfully restrained the informant and her family member and thereby committed an offence punishable under Sections 341, 34 of Indian Penal Code?

(II) Whether, on the same date and time, accused persons in furtherance of their common intention, committed criminal force to the informant and her family members and thereby committed an offence punishable under Sections 352, 34 of Indian Penal Code?

(III) Whether, on same day and time accused persons in furtherance of common intention, voluntarily caused hurt to the informant and her family members and thereby committed an offence punishable under Sections 323, 34 of Indian Penal Code?

(IV) Whether, on the same date and time, accused persons in furtherance of their common intention,, uttered obscene act and word to the informant and his sons and

thereby committed an offence punishable under Section 294, 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 PW-1, Wahed Ali, and PW-2, Kulsuma Begum have stated that there was an altercation with accused persons. They further stated that the matter was amicably settled between them as the informant was no more and they have no grudge against them. They also deposed that if they are acquitted from the case they do not have any objection.

7. In the given case, PW-1 & PW-2 have categorically deposed that at present, they do not want to proceed with this case. Therefore, there is no specific incriminating material against them in the testimony of PW-1 & PW-2.

8. Since the prosecution witnesses who launched the prosecution of the accused persons have not incriminated the accused persons, 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 accused persons.

ORDER

9. Situated thus, accused persons are acquitted of the offence under Sections 341, 352, 323, 294, 34 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 19th day of December, 2022 at Sonitpur, Assam.

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