

IN THE COURT OF JMFC-20, SONITPUR, TEZPUR

Present: Sri Vishek Bhuyan, AJS

[Date of the Judgment]

**20-12-2022**

[GR Case No: 3652 of 2016]

(Details of FIR/ Crime and Police Station)

Complainant :	STATE OF ASSAM OR Smt. Lakhi Mandal
REPRESENTED BY	Learned A.P.P Sri Niranjan Saikia.
ACCUSED PERSONS	A1. Smt. Barun Mandal W/o- Subhal Mandal A2. Smt. Sunita Mandal W/o- Amrit Mandal Both are Vill- Keheru Khunda P.S- Dhekiajuli Dist- Sonitpur (Assam)
REPRESENTED BY	Ld. Advocate B. B. Biswas and Ld. Advocate Smt. Anjali Das

**FORM B**

Date of Offence	26-10-2016
Date of FIR.	28-10-2016
Date of Charge-sheet	31-10-2016
Date of offence explained	28.08.2018
Date of commencement of evidence	09.11.2018
Date on which judgment is reserved	17.12.2022
Date of the Judgment	20.12.2022
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.
	Barun Mandal	NA	27-02-18	294/323 /447/506/34	Acquitted	NIL	
	Sunita Mandal	NA	27-02-18	294/323/447/506/34	Acquitted	NIL	

Form C

**A. Prosecution**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Lakhi Mandal	Other witness (Complainant)
PW-2	Anita Das	Other witness
PW-3	Namita Singh	Other witness
PW-4	Priyo Bhadra	Other witness
PW-5	Pradip Kr. Nath	Other witness

**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 :**

RAN K	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	Ext -1	FIR
2	Ext-1(1)	Signature of the informant
3	Ext- P2	Sketch Map
4	Ext-P 3	Charge-sheet
5	Ext-P 3 (1)	Signature of I.O

**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	Material Object Number	Description
NIL	NIL	NIL

**BEFORE THE COURT OF JUDICIAL MAGISTRATE**  
**1<sup>ST</sup> CLASS**

**TEZPUR, SONITPUR**

**Present :- Sri Vishek Bhuyan, AJS**  
**Judicial Magistrate 1st Class Sonitpur, at**  
**Tezpur**

**G.R CASE NO.: 3652 of 2016**

**Under Sections 294/323/447/506/34 of IPC**

**State of Assam**

**-VERSUS-**

**A1. Smt. Barun Mandal**

W/o- Subhal Mandal

**A2. Smt. Sunita Mandal**

W/o- Amrit Mandal

Both are Vill- KeheruKhunda

P.S- Dhekiajuli

Dist- Sonitpur (Assam)

-Accused persons.

**Appeared**

Ld. APP for State :Sri Niranjana Saikia.

Ld. Counsel for Defence :Ld. Advocate B. B. Biswas  
and Ld. Advocate Smt.  
Anjali Das

Offence explained on :28.08.2018

Dates of Evidence :09.11.2018, 05.09.2019,  
29.11.2021, 27.06.2022

Date of Argument : 15.10.2022.

Date of Judgment : 20.12.2022.

### **J U D G M E N T**

**1.** The present case arose out of an FIR lodged by informant Lakhi Mandal that on 26.10.2016 at about 5 PM the accused persons got into a verbal altercation with her and verbally abused her with obscene words. Furthermore, the accused persons entered into her house forcefully and beat her up with a stick due to which she sustained serious injuries. The informant consequently filed an FIR. Hence, this case.

**2.** On receipt of the FIR, officer in charge of Dhekiajuli police station registered a case vide Dhekiajuli P.S. case no. 794/2016 under Sections 448/325/294/506/34 of the Indian Penal Code (IPC) and endorsed the case for investigation. Accordingly investigating officer (I/O) initiated investigation of this case and on completion of investigation, I/O submitted charge sheet against the accused persons under Sections 447/323/294/506/34 of the IPC.

**3.** Thereafter, on basis of the contents of the case diary, FIR, charge sheet and other relevant

documents, cognizance was taken of the offence prima facie appeared to have been committed by the accused persons and summons were issued against them.

**4.** On appearance, accused persons were furnished with copy of relevant documents under Section 207 of the Criminal Procedure Code (Cr.P.C.).

**5.** On perusal and consideration of the material on record and upon hearing the learned Assistant Public Prosecutor (APP) and the learned counsel appearing on behalf of the accused persons, prima-facie material of offence under Sections 294/323/447/506/34 of the Indian Penal Code (IPC) were found against the accused persons. The particulars of the offences were explained to the accused persons, to which they pleaded not guilty and claimed to be tried.

**6.** In support of its case, prosecution examined 5 (five) number of witnesses and exhibited 3 (three) numbers of documents. The witnesses were cross-examined by the defence and thereafter the witnesses were discharged.

**7.** Statements of defence of the accused persons under section 313 Cr.P.C. have been recorded and kept with the case record. Defence pleas were of



complete denial and declined to adduce any evidence.

**8.** I have perused the material on record and heard the arguments advanced by the learned A.P.P. and the learned counsel appearing for the accused persons.

**9.** Upon hearing and after perusal of the record, following points are formulated for proper adjudication of this case:

**POINT FOR DETERMINATION :**

**(A) Point No. 1 :** Whether the accused persons in furtherance of common intention on 26.10.2016 at about 5 PM committed criminal trespass into the house of the informant Smt. Lakhi Mandal and thereby committed an offence punishable under section 447/34 of IPC ?

**(B) Point No. 2 :** Whether the accused persons in furtherance of common intention on 26.10.2016 at about 5 PM physically assaulted the informant causing injury and thereby committed an offence punishable under section 323/34 of IPC ?

**(C) Point No. 3 :** Whether the accused persons in furtherance of common intention on 26.10.2016 at about 5 PM verbally abused the informant with obscene words to the utter annoyance of public

and thereby committed an offence punishable under section 294/34 of IPC ?

**(D) Point No. 4 :** Whether the accused persons in furtherance of common intention on 26.10.2016 at about 5 PM threatened the informant with dire consequences and thereby committed an offence punishable under section 506/34 of IPC ?

### **PROSECUTION EVIDENCE**

#### **Evidence of informant cum victim**

**10. P.W 1 Lakhi Mandal** states that she is the informant of this case. She knows the accused persons. This incident took place in the year 2016 at about 5 PM in her residence. She does not remember the date of occurrence of the incident. Accused Sunita Mandal came to the field and started to scold her. She asked her daughter to see who scolded her. At that time accused Sunita Mandal asked her to keep quite and come running towards her and uttered obscene slang words and languages to her. Accused Sunita Mandal beat her with wooden logs and injured her on her head and waist. The mother in law of Sunita Mandal also beat her. Sunita Mandal and her mother in law (Barun Mandal) pulled her by the hairs and threw her in a pond. After half and hour she lodged this case

against the accused persons. She sustained injury on her head, legs and waist. **In her Cross examination** she stated that accused Barun Mandal is her mother in law. Sunita Mandal is her sister in law. Since 1993, she resided at Chariduar and some other parts of the state but in the year 2014 she returned back and started to reside at Dangabasti, Dhekiajuli. Her parents in law resided at Dangabasti prior to her coming in 2014. Her parents in law constructed a pukka house at the adjacent path of the road and resides there. Her father in law brought them back to Dangabasti since the business of her husband was not stable and thereafter they resided at the old house of Dangabasti. The house where she is residing is in the name of her father in law. In the ejahar it is not mentioned that accused Sunita Mandal came to the filed and started to scold her. At the time of occurrence of incident almost 200 persons gathered. Some of them were Rojina Begum, Nityananda Bhadra, Phuleswari Kurmi. There were many people but she does not remember their name. There is a well in the plot of land where she reside and the accused persons use to collect water from the well. But now they does not collect water from the said well. Her father in law was cutting wooden logs in the house where she resides with

the help of daily wage labourer and she forbided him from doing so.

**Evidence of independent witnesses**

**11. P.W 2 Anita Das** states that she knows both the parties. She knows nothing about the incident. **Cross examination** was declined.

**12. P.W-3 Namita Singh** states that she knows both the parties. She knows nothing about the incident. **Cross examination** was declined.

**13. P.W-4 Priyo Bhadra** states that he knows the accused, they live nearby. He knows the informant. He does not know about the incident. He has been living outside from past 3 years. **Cross examination** was declined.

**14. P.W-5 Pradip Kr. Nath** states that he knows the accused. On 28.10.2016 the informant Lakhi Mandal filed an ejahar at Dhekiajuli P.S. He endorsed to investigate the case. He had not take the for medical examination as she was already medically examined on 26.10.2016. He took the statement of the informant and then proceeded to the place of occurrence. He drew a sketch map of the place of occurrence. He then took the statement of the other witnesses at the place of occurrence. The house of the accused person near

the place of occurrence and so he proceeded to the house of the accused persons but he had not found them at that time. On 30.10.2016 the accused appeared before the police station and took their statement. Upon finding sufficient evidence against them so he arrested them and also released them on bail. He then collected the medical examination report of the informant. He then submitted the chargesheet against Arun Mandal and Sunita Mandal and upon not finding any evidence against Amit Mandal he had not been charge sheeted and allowed to go. **In his cross examination** he states that the ejahar was registered on 28.10.2016. On 28.10.2016 he proceeded to the place of occurrence. He had not indicated the house of the accused in the sketch map. The informant had not stated before him that she was hit by the accused persons with a wooden log and that she sustained injury on her head and waist. The informant had not stated before him that the accused persons pulled the informant by her hair and threw her into a pond.

**DISCUSSIONS, DECISIONS AND REASONS**

**THEREOF**

**15.** Upon perusal of the evidence of prosecution, there appears to be a distinct lack of corroboration of the informant/PW-1 by the other witnesses. None of the other witnesses stated that they know

anything about the incident, hence none of them were able to corroborate the informant's testimony.

Now, it is pertinent to note that as per section 134 of the Indian Evidence Act, 1872 no particular number of witnesses shall in any case be required for the proof of any fact, it is the quality of evidence and not quantity that shall be the deciding factor in proving a particular fact.

In the instant case, the informant has been examined as PW-1 who stated in her examination in chief that accused Sunita Mandal came at her running with a wooden log and beat her up with it. In her cross examination, suggestion was made to the effect that that she did not state before the Police that the accused Sunita Mandal came running at her with a wooden log and beat her up with it, which the informant vehemently denied. But in the evidence of I.O/PW-5 it is seen that the informant did not state before him that the accused beat her with a wooden log due to which she sustained injuries.

Secondly, the informant/PW-1 has stated in her cross examination that in her statement before the Police she said that the accused persons pulled her by her hair and threw her into a pond. But PW-5 deposed that the informant did not state before him

that the accused persons pulled her by her hair and threw her into a pond.

Hence, there appears to be some contradiction in the testimony of the informant and in absence of any corroboration by other witnesses, the testimony of the informant cannot be relied upon solely.

As such the prosecution has failed prove that the accused persons have committed the offences u/s 294/323/447/506/34 of IPC beyond reasonable doubt.

**ORDER**

**16.** In light of the above discussion, the accused persons namely Barun Mandal and Sunita Mandal are acquitted of the charges of offence alleged to have been committed by them.

**17.** Set the accused persons at liberty forthwith.

**18.** Bail bond for the accused persons are extended for a further period of six months in view of section 437(A) of the Cr.P.C.

**19.** Given under the hand and seal of this court on this **20<sup>th</sup> day of December, 2022** at Tezpur, Sonitpur.

**(Sri Vishek Bhuyan)**  
**Judicial Magistrate First Class**  
**Tezpur, Sonitpur.**

**Appendix**

**Name of the witness of Prosecution:-**

1. P.W-1 : Lakhi Mandal
2. P.W-2 : Anita Das
3. P.W-3 : Namita Singh
4. P.W-4 : Priyo Bhadra
5. P.W-5 : Pradip Kr. Nath

**Documents exhibited by Prosecution :-**

1. Ext-1 : FIR.
2. Ext-1(1): Signature of the informant.
3. Ext-P 2 : Sketch Map
4. Ext-P 3 : Charge-sheet
5. Ext- P 3 (1) : Signature of I.O.

**Name of the witness of Defence:-** Nil.

**Documents exhibited by Defence :-** Nil.

**(Sri Vishek Bhuyan)  
Judicial Magistrate First Class  
Tezpur, Sonitpur.**