

**APPENDIX-12**

<p><u>IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR</u></p> <p><u>TEZPUR</u></p> <p>Present:- Sri Nabajit Bhatta. AJS. MA, LL.B. Chief Judicial Magistrate, Sonitpur, Tezpur</p> <p>[Date of the Judgment] <b>20.09.2022</b></p> <p><b>[GR Case No-643 of 2016]</b></p> <p>(FIR NO-30/2016 DATED-04.03.2016/ WRONGFUL RESTRAINT/WRONGFUL CONFINEMENT/VOLUNTARILY CAUSING HURT/OBSCENE ACT CASE AND CHARIDUAR POLICE STATION)</p>	
COMPLAINANT :	STATE OF ASSAM OR Md. Zakir Hussain, S/O:- Md. Abdul Ali, R/O:- Gudamghat, P/S:- Chariduar, Dist:- Sonitpur, Assam
REPRESENTED BY	Mr. Nalini Kanta Mishra, Ld. Addl. P.P Smt. Karabi Das, Asst. P.P.
ACCUSED PERSON	Must. Jariman Nessa @ Ajiman Nessa, W/O:- Md. Adam Sahil, R/O:- Gudamghat, P/S:- Chariduar, Dist:- Sonitpur, Assam
REPRESENTED BY	Mr. Someswar Borah, Ld. Counsel

**APPENDIX-13**

Date of Offence	13.02.2016
Date of FIR	04.03.2016
Date of Charge Sheet	21.03.2016
Date of Offence Explanation	06.06.2019
Date of commencement of evidence	04.02.2020
Date on which judgment is reserved	14.09.2022
Date of Judgment	20.09.2022
Date of the Sentencing Order, if any	NIL

**ACCUSED DETAILS :**

Rank of the Accused	Name of the accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentenced Imposed	Period of detention undergone during Trial for purpose of Sec. 428 Cr.P.C.
A-1	Must. Jariman Nessa @ Ajiman Nessa	NIL	NIL	Sec-341/342/323/294 of IPC	Acquitted	NIL	NIL

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR**

**G. R. Case No-643 of 2016**

State of Assam

–Vs–

Must. Jariman Nessa @ Ajiman Nessa

.....Accused Person

Under section-341/342//323/294 of I.P.C

*Present:*

*Sri Nabajit Bhatta AJS. MA, LL.B.  
Chief Judicial Magistrate, Sonitpur at Tezpur*

20<sup>th</sup> day of September, 2022

Mr. N. K. Mishra, Addl. P.P

..... Advocate for the State

Mr. S. Borah, Ld. Counsel

..... Advocate for the Accused

Date of Hearing

: 04.02.2020 & 05.09.2022

Date of Argument

: 14.09.2022

Date of Judgment

: 20.09.2022

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

1. Prosecution story in brief is as follows that on 04.03.2016, the informant Md. Zakir Hussain lodged an FIR before the O/C of Chariduar Police Station to the effect that on 13.02.2016 at about 5:10 PM accused Must. Ajiman Nessa @ Jamiran Nessa wrongfully restrained his sister, namely, Must. Dilowara Khatoon in front of the house of accused while she along with her friend was proceeding towards her house. It is also stated that the accused abused her using filthy languages and further assaulted her by way of giving fist blows and due to that she sustained injuries on her chest. It is further stated that accused, namely, Md. Khajaluddin also assaulted her by dragging her from the road and tried to kill her. Hence, the prosecution case.

2. The instant case was registered under section-341/342/325/294/34 of I.P.C. and police investigated the same. After completion of the investigation police submitted the charge-sheet against the accused persons namely Must. Jamiran Nessa @ Ajiman Nessa and Md. Khajaluddin under section-341/342/323/294 of the I.P.C.
3. That Ld. Judicial Magistrate First Class, Sonitpur, Tezpur at that time took the cognizance of the offences against the accused persons. It is pertinent to mention herein that during the stage of appearance accused Md. Khajaluddin did not turn up before the court and accordingly, this court has issued NBWA against him due to his non-appearance before the court and later, P&A was issued against him. Thereafter, the EO has submitted P&A report after execution of the same stating that the said accused is not traceable in the given address and there is no any movable or immovable properties found in the name of the said accused person. Accordingly, vide order dated-07.02.2019 the instant case was filed against the accused namely, Md. Khajaluddin by my Ld. Predecessor in office till the execution of pending NBWA issued against him and consequent to that the instant case proceeded against the remaining accused person, namely, Must. Jamiran Nessa @ Ajiman Nessa as per law. On appearance of the accused person Must. Jamiran Nessa @ Ajiman Nessa copies of relevant documents were furnished to the accused person and particulars of offences under section-341/342/323/294 of I.P.C. were read over and explained to the accused person by my Ld. Predecessor in office to which she pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined only two numbers of witnesses i.e. the informant and the victim in support of the case. Defence plea was total denial. Statement of the accused person has been recorded U/S-313 of Cr. P.C. Defence has adduced no evidence.
5. **POINTS FOR DETERMINATION:-**
  - (i.) Whether the accused person on 13.02.2016 at about 05:15 PM at Godamghat under Chariduar PS had wrongfully restrained the informant's sister, namely, Must. Dilowara

Khatoon and thereby committed an offence punishable under section-341 of I.P.C?

(ii.) Whether on the same date and time, the accused wrongfully confined the informant's sister namely Must. Dilowara Khatoon at her house and thereby committed an offence punishable under section-342 of I.P.C?

(iii.) Whether on the same day and time and place the accused person voluntarily caused hurt to the informant's sister by way of beating her and thereby committed an offence punishable under section-323 of I.P.C.?

(iv.) Whether the accused person on the same date, time and place used obscene words towards the informant's sister and thereby committed an offence punishable under section-294 of I.P.C?

6. Heard argument from the Ld. Advocate of the both parties. On perusal of the evidence on record and case diary the very findings are as follows.

**DISCUSSION, DECISION AND REASONS THEREOF**

7. The prosecution opening the account of examining the witnesses first brought the informant, namely, Must. Dilwara Khatoon as PW-1. The PW-1 in her evidence-in-chief has stated that the informant is her brother. She knows the accused person of this case. She further stated that the incident occurred on 13.02.2016 and on that day at about 5 PM she was on her way to the house of her paternal aunt and while coming back she saw many people assembled on the way. She also stated that suddenly she fainted. She stated that she lost her consciousness and does not know what happened thereafter. She also stated that after she begins her conscious she realised that she received injury on her head and on her body. Subsequent to this incident her brother had lodged the instant case.
8. In cross-examination, PW-1 has stated that when she was returning home she saw many people had assembled on the road. She also stated that among them was the accused. She further stated that as she had fainted and sustained

injury, her brother suspected that the accused person had assaulted her due to which she lost her consciousness. She admitted that however, no such assault was inflicted her by the accused.

9. PW-2, Md. Jakir Hussain being the informant of this case has stated in his evidence-in-chief that he knows the accused person of this case and he is his neighbour. He also stated that the incident took place in the year 2016 and on the date of incident an altercation took place between his sister Dilowara Khatoon and the accused person. He further stated that his sister sustained injury during the scuffle and after that out of misunderstanding he lodged the ejahar against the accused person. He gave thumb impression on his ejahar. Later on, they have amicably settled their dispute.
10. I have minutely perused the evidence on record including the cross examination of the witnesses. In this case, the prosecution side has examined only two numbers of witnesses out of which PW-1 is victim and PW-2 is the informant of this case. PW-1 being the victim of the case has stated that on 13.02.2016 at about 5 PM she was on her way to the house of her paternal aunt and while coming back she saw many people assembled on the way. Thereafter, suddenly she fainted and lost her consciousness. PW-1 in her cross-examination clearly stated that, no such assault was inflicted her by the accused. She also admitted that the injury which she had received on her body was only because she fell down on the road on losing her consciousness.
11. Now, coming to the evidence of informant (PW-2), it appears that the incident took place in the year 2016 and on the day of incident, an altercation took place between his sister and the accused and also a scuffle took place between them due to which his sister sustained injury on her person. After that out of misunderstanding he lodged the ejahar against the accused person. From the evidence of PW-2 (Informant) nothing implicating found against the accused person as he admitted that he lodged the ejahar against the accused only out of misunderstanding.

12. That, both the witnesses failed to support the fact that the accused person had actually assaulted the victim on the date of alleged incident as alleged by PW-2 in his ejahar.
13. Hence, considering all above discussions it appears that the prosecution has not proved the case against the accused person beyond reasonable doubt. Thus keeping view of what has been discussed above this court has no least hesitation that the prosecution has failed miserably to establish the guilt of the accused person, namely, Must. Jamiran Nessa @ Ajiman Nessa U/S: 341/342/323/294 of Indian Penal Code. Hence, the accused person, namely, Must. Jamiran Nessa @ Ajiman Nessa is not found guilty.

### **ORDER**

Accused person, namely, Must. Jamiran Nessa @ Ajiman Nessa is acquitted from the Charges under section-341/342/323/294 of Indian Penal Code and set at liberty forthwith.

Bail-bond of the accused person is extended for six months in view of section-437A of Cr.P.C.

Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 20<sup>th</sup> day of September, 2022 at Tezpur.

Dictated and Corrected by me

**(Sri Nabajit Bhatta)**  
**Chief Judicial Magistrate,**  
**Sonitpur: Tezpur**

Chief Judicial Magistrate,  
Sonitpur: Tezpur

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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Must. Dilowara Khatoon	VICTIM
PW-2	Md. Jakir Hussain	INFORMANT

**B. Defence Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**C. Court Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS****A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**D. Material Objects:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

Chief Judicial Magistrate,  
Sonitpur: Tezpur