

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS**

**TEZPUR, ASSAM**

**G.R CASE NO:1290/17**

**U/S 323/294 of the Indian Penal Code**

State of Assam

.....PROSECUTOR

**-Vs.-**

Md. Sahed Ali

S/o Lt. Abdul Sekh

Of village- Biskati

P.S-Dhekiajuli, Dist- Sonitpur

.....ACCUSED

**PRESENT: VISHEK BHUYAN, LL.M, AJS**

**JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR**

FOR PROSECUTION: LD. APP. Mr Tapan Das

FOR THE ACCUSED: M. Islam

EVIDENCE RECORDED: 05.01.2022

ARGUMENTS HEARD ON: 05.01.2022

JUDGEMENT DELIVERED ON: 10.01.2022

## **JUDGMENT**

1. The accused person Md. Sahed Ali stood trial for offences punishable under Sections 323/294 of Indian Penal Code (hereinafter IPC).

### **Information and Investigation**

2. The genesis of this case has its roots with the lodging of Ejahar by informant Musstt. Banasha Khatun is that, on 11.04.2019 at about 6 P.M, while she was going with her husband to Biskuti Center, the accused person with a dao in his hand, pulled her by her hair and also physically assaulted her as a result of which she sustained serious injuries. And when she screamed for help, one Musstt. Jyotsnara Khatun came to her aid but the accused kicked her at her gut due to which she also sustained injuries, the accused person along with a few others also beat up her 8 year old son. Hence, this case.
3. The Ejahar was registered as Dhekiajuli P.S Case no 285/17 U/s 354/325/379/34 of IPC. The police after investigation submitted charge sheet against the accused person under section 323/294 of IPC.

### **Trial**

4. Cognizance was taken of the Charge sheeted offences and processes were issued upon which the accused person appeared and copies of the relevant documents were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as CrPC). The particulars of the offences were explained to the accused person, to which he pleaded not guilty and claimed to be tried.
5. In this case, the prosecution has examined the informant-cum-victim as PW-1. Considering testimony of the informant, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused person u/s 313 Cr PC dispensed with as the prosecution did not adduce any implicating evidence against them.
6. After hearing the learned Counsel of both sides and after perusal of the case record, I do hereby frame the following points of determination.

### **POINTS FOR DETERMINATION**

***i) Whether the accused person namely Md. Sahed Ali on 05.06.2018 at about 6 PM near Biskuti Center, voluntarily caused hurt to the informant cum victim and, thereby, committed an offence punishable under Section 323 IPC?***

***ii) Whether the accused person on the same day and time committed obscene act by use of foul words to the annoyance of public and thereby committed an offence punishable under section 294 of the Indian Penal Code?***

### **PROSECUTION EVIDENCE**

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

7. **P.W 1 Banesha Khatoon** is the informant-cum-victim in this case. She states that a fight took place about 4 to 5 years ago due to some household argument. The accused person is her in law and now the matter has been settled among them amicably and holds no grievance against him anymore.
8. **In her cross examination**, she states that she has no objection if the accused person is acquitted.

### **DISCUSSIONS, DECISIONS AND REASONS THEREOF**

9. Upon a perusal of the evidence, it is clear that the informant-cum-victim of this case does not wish to proceed with the case, as the case was lodged due to a personal difference but since then the matter has been resolved among the two parties amicably and has no issue if the accused is acquitted of the charges brought against him.
10. As such the prosecution has failed to prove that the accused person has committed the offences u/s 323/294 of IPC beyond reasonable doubt.

**ORDER**

In light of the above, it is held that the prosecution has failed to prove the case U/s 323/294 of IPC against the accused Md. Sahed Ali beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, his bail bond shall remain in force for a period of next 6(six) months as provided by section 437A Cr PC.

Given in my hand and under the seal of this court on this the 10<sup>th</sup> day of January, 2022.

Typed by Me:

(Mr Vishek Bhuyan)  
Judicial Magistrate First Class  
Sonitpur, Tezpur

**APPENDIX**

**Prosecution Witness:**

PW-1: Musstt. Banasha Khatoon

**Defence Witness:**

NIL

**Prosecution Exhibits:**

NIL

**Defence Exhibits:**

NIL

(Mr Vishek Bhuyan)  
Judicial Magistrate First Class  
Sonitpur, Tezpur