

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

TEZPUR, ASSAM

G.R CASE NO:2452/16

U/S 341/294/506

of the Indian Penal Code

State of Assam

.....PROSECUTOR

-Vs.-

Jaharul Islam

S/o Md Atabur Rahman

Mazarul Islam

S/o Md. Atabur Rahman

Village- Photguribalitika

P.S-Tezpur, Dist- Sonitpur

.....ACCUSED

PRESENT: VISHEK BHUYAN, LL.M, AJS

JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR

FOR PROSECUTION: LD. APP. Mr Tapan Das

FOR DEFENCE: Sri Babul Borthakur, Bornali Borah, Sonali Saikia, Diganta Baruah,
Chandramita

EVIDENCE RECORDED: 26.11.2021

ARGUMENTS HEARD ON: 12.01.2022

JUDGEMENT DELIVERED ON: 19.01.2022

JUDGMENT

1. The accused persons Jaharul Islam and Mazarul Islam stood trial for offences punishable under Sections 341/294/506 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 Md. Mazibur Rahman is that on 30.07.2016 at about 3 PM while he was going from his home to another place, the accused persons came and beat him up as well as verbally abused him with obscene words and language, hence this case.
3. The Ejahar was received and registered as Tezpur P.S Case no 1302/16 U/s 341/323/294/506 IPC. The police after investigation submitted charge sheet against the accused persons under section 341/294/506 of IPC.

Trial

4. Cognizance was taken of the Charge sheeted offences and processes were issued upon which the accused persons appeared and copies of the relevant documents were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as Cr PC). The particulars of the offences were explained to the accused persons, to which they pleaded not guilty and claimed to be tried.
5. In this case, the prosecution has examined one witness as PW-1 who deposed on record that the informant of the case expired. Considering testimony of the witness, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused persons 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 persons Jaharul Islam and Mazarul Islam together on 30.07.2016 at 3 P.M wrongfully confined the victim and thereby committed an offence punishable U/s 341 of the IPC?***
- ii. Whether the accused persons 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?***
- iii. Whether the accused persons at around the same time and place subjected the informant and victim to criminal intimidation and thereby committed an offence punishable U/s 506 of IPC?***

PROSECUTION EVIDENCE

Evidence of the informant cum victim

7. **P.W 1 Abusan Ali** deposes that he knows both the accused persons as well as the informant and that the informant of this case expired five to six years ago. The accused persons and the informant were related to each other and the incident took place five to six years back.
8. **In his cross examination**, he deposed that he has not witnessed the incident, just heard about it.

DISCUSSIONS, DECISIONS AND REASONS THEREOF

9. Upon a perusal of the evidence, it clear that there appears to be absolutely no incriminating materials against the accused persons.
10. As such the prosecution has failed prove that the accused persons have committed the offences u/s 341/294/506 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 341/294/506 of IPC against the accused persons Jaharul Islam and Nazrul Islam beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, their 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 19th day of January, 2022.

Typed by Me:

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

APPENDIX

Prosecution Witness:

PW-1: Sri Abusan Ali

Defence Witness:

NIL

Prosecution Exhibits:

NIL

Defence Exhibits:

NIL

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