

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

**TEZPUR, ASSAM**

**G.R CASE NO:568/16**

**U/S 448/323/294/34**

**of the Indian Penal Code**

State of Assam

.....PROSECUTOR

**-Vs.-**

**1. Abdul Karim**

S/o Momtaz Ali

**2. Musst. Erani Khatoon**

W/o Abdul Karim

**3. Md. Baharul**

S/o Abdul Malek

Village- Gotlong

P.S-Tezpur, Dist- Sonitpur

.....ACCUSED

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

**JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR**

FOR PROSECUTION: LD. APP. Mr Tapan Das

EVIDENCE RECORDED: 11.01.2022

ARGUMENTS HEARD ON: 11.01.2022

JUDGEMENT DELIVERED ON: 12.01.2022

## **JUDGMENT**

1. The accused persons Abdul Karim, Musstt. Erani Khatoon and Md. Baharul stood trial for offences punishable under Sections 448/323/294/34 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. Momruj Ali is that, on 28.02.2016 at about 9 P.M. the accused persons came to house of the informant and started arguing regarding some property and also pushed and shoved the wife of the informant along with verbally abusing her. Hence, this case.
3. The Ejahar was received and registered as Tezpur P.S Case no 305/16 U/s 448/294/325/498(A)/34 IPC. The police after investigation submitted charge sheet against the accused persons under section 448/323/294/34 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 CrPC). 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 the informant 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 persons u/s 313 CrPC 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 Abdul Karim, Musstt. Erani Khatoon and Md. Baharul on 28.02.2016 at 9 P.M committed house trespass by illegally entering the house of the informant and thereby committed an offence punishable U/s 448/34 of the IPC?***
- ii. Whether the accused persons on the same day and time voluntarily caused hurt to the informant cum victim and, thereby, committed an offence punishable under Section 323/34 IPC?***
- iii. 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 294/34 of the Indian Penal Code?***

### **PROSECUTION EVIDENCE**

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

7. **P.W 1 Manroj Ali** is the informant in this case. He states that he knows the accused persons standing in the dock. The incident took place about five to six years ago due to a dispute arising out of marriage between his son and daughter of the accused persons. And presently the matter has been settled and that he has no complaint against the accused persons.
8. **In his cross examination**, he states that he has no objection if the accused persons are acquitted.

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

9. Upon a perusal of the evidence, it is clear that the informant 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 prove that the accused persons have committed the offences u/s 448/323/294/34 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 448/323/294 of IPC against the accused persons Abdul Karim, Musstt. Erani Khatoon and Md. Baharul 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 12<sup>th</sup> day of January, 2022.

Typed by Me:

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

## **APPENDIX**

### **Prosecution Witness:**

PW-1: Sri Manroj Ali

### **Defence Witness:**

NIL

### **Prosecution Exhibits:**

Ext-1: Ejahar

Ext-1(1): Signature of informant

### **Defence Exhibits:**

NIL

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