

**APPENDIX -12****IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS****Present:** Smt. Darshana Nath, JMFC, SONITPUR, TEZPUR**[Date of the Judgment]**

01.12.2022

[ PR Case No.1044 of 2019]

(Details of FIR/ Crime and Police Station)

<b>COMPLAINANT :</b>	State of Assam Or Maria Goreti Tete W/o Ishan Long R/o- Namgaon Tea Estate, P.S.- Rangapara, Dist.- Sonitpur (Assam)
<b>REPRESENTED BY</b>	Smti Niva Devi, Ld. A.P.P.
<b>ACCUSED</b>	1.Dipak Karmakar S/o- Bolo Karmakar 2. Karan Rotia S/o- Madon Rotia 3. Sanjip Rotia S/o- Mangal Rotia All are R/o- Namgaon T.E. Line No.18, P.S.- Rangapara, Dist.- Sonitpur (Assam)
<b>REPRESENTED BY</b>	Sadhan Das, Arabinda Das and Tiura Pachani, Ld. Counsels.

**APPENDIX -13**

Date of Offence	21-03-2019
Date of FIR.	21-03-2019
Date of Charge-sheet	24-03-2019
Date of Offence Explained	19-02-2022
Date of commencement of evidence	21-11-2022
Date on which judgment is reserved	-
Date of the Judgment	01-12-2022
Date of the Sentencing Order, if any	-

**ACCUSED DETAILS:**

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offence charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 438, Cr.P.C.
A1	Dipak Karmakar	Nil	Nil	U/S 447/35 2/294 IPC	Acquitted	Nil	Nil
A2	Karan Rotia	Nil	Nil	U/S 447/35 2/294 IPC	Acquitted	Nil	Nil

A3	Sanjip Rotia	Nil	Nil	U/S 447/35 2/294 IPC	Acquitted	Nil	Nil
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**IN THE COURT OF JUDICIAL MAGISTRATE FIRST  
CLASS AT SONITPUR, TEZPUR**

**PRESENT: DARSHANA NATH, AJS, Tezpur, Sonitpur**

**PR CASE NO: 1044/19**

**U/S 447/352/294 IPC**

**STATE**

**VS.**

**Dipak Karmakar & Others**

FOR PROSECUTION: Smti. Niva Devi

FOR THE ACCUSED: Sadhan Das, Arabinda Das and Tiura  
Pachani, Ld. Counsels.

EVIDENCE RECORDED ON : 21-11-2022

HEARD ARGUMENTS ON : 21-11-2022

JUDGEMENT DELIVERED ON : 01-12-2022

**JUDGMENT**

1. The accused persons A1, A2 and A3 stood trial for offences punishable under Sections 447/354/294/34 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 on 21/03/2019 wherein she stated that the accused persons used obscene word in public place and injured the informant.
3. The Ejahar was registered as Rangapara P.S Case no 51/19 u/s 447/325/506/34 IPC. The police after

investigation submitted charge sheet against the accused persons under section 447/352/294/34 IPC.

### **Trial**

4. Cognizance was taken of the charge sheeted offences and processes were issued upon which the accused persons appeared and copy of the relevant documents was furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as CrPC). Substances of the offences are 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 PW1. Considering the 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 incriminating 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**

- a) **Whether the accused persons in furtherance of common intention used criminal force and thereby committed offence u/s 352/34 IPC**
- b) **Whether the accused persons in furtherance of common intention used obscene words to the informant in public place and**

**thereby committed offence u/s  
294/34 IPC?**

**c) Whether the accused persons in  
furtherance of common intention  
committed criminal trespass and  
thereby committed offence u/s  
447/34 IPC?**

### **PROSECUTION EVIDENCE**

#### **Evidence of the informant**

7. PW1 is the informant. She stated that he lodged the ejahar about 3 years back against the accused persons due to some misunderstanding. Currently the matter has been settled amicably between both the sides. Hence, she does not wish to continue with the case and she has no objection even if the accused persons are acquitted.
8. The defense declined to cross examine the PW1.

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

9. Upon a perusal of the evidence, it is clear that the victim/informant in this case does not wish to proceed with the case, as the case was lodged due to misunderstanding but now the matter has been resolved among the two parties amicably and she has no issue if the accused persons are acquitted of the charges brought against them.
10. As such the prosecution has failed prove that the accused persons have committed the offences u/s 447/294/352/34 IPC beyond reasonable doubt.

### **ORDER**

11. In light of the above, it is held that the prosecution has failed to prove the case U/s

447/294/352/34 IPC against the accused persons **A1**, **A2** and **A3** beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, their bail bonds shall remain in force for a period of next 6(six) months as provided by section 437A CrPC.

Given in my hand and under the seal of this court on this the 1<sup>st</sup> day of December, 2022.

Typed by Me:

Smti. Darshana Nath  
Judicial Magistrate First Class,  
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)
PW1	Maria Goreti Tete	Complainant

**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>
1	Exhibit P1/PW1	FIR
2	Exhibit P1(1)/PW1	Signature of PW1

**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

Smti. Darshana Nath  
Judicial Magistrate First Class, Tezpur