

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

11.11.2022

[ PR Case No.1244 of 2019]

(Details of FIR/ Crime and Police Station)

<b>COMPLAINANT :</b>	State of Assam Or Mina Borah W/o Lt. Tilak Ch. Borah R/o- Da-Becheria, P.S.- Tezpur, Dist.- Sonitpur (Assam)
<b>REPRESENTED BY</b>	Smti Niva Devi, Ld. A.P.P.
<b>ACCUSED</b>	1.Dhrubajyoti Saikia S/o- Baneswar Saikia 2. Hirakjyoti Saikia S/o- Baneswar Saikia 3. Aditya Saikia S/o- Dimbeswar Saikia 4.Baneswar Saikia S/o-Lt. Oli Saikia

	All are R/o- Da-Becheria, P.S.- Tezpur, Dist.- Sonitpur (Assam)
<b>REPRESENTED BY</b>	Biraj Nath, Ld. Counsel.

**APPENDIX -13**

Date of Offence	07-11-2018
Date of FIR.	09-11-2018
Date of Charge-sheet	30-11-2018
Date of Offence Explained	21-01-2021
Date of commencement of evidence	18-08-2022
Date on which judgment is reserved	-
Date of the Judgment	11-11-2022
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	Dhrubajyoti Saikia	Nil	Nil	U/S 147/44 7/341/2 94/323 IPC	Acquitted	Nil	Nil
A2	Hirakjyoti Saikia	Nil	Nil	U/S 147/44 7/341/2 94/323 IPC	Acquitted	Nil	Nil

A3	Aditya Saikia	Nil	Nil	U/S 147/44 7/341/2 94/323 IPC	Acquitted	Nil	Nil
A4	Baneswar Saikia	Nil	Nil	U/S 147/44 7/341/2 94/323 IPC	Acquitted	Nil	Nil

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST  
CLASS AT SONITPUR, TEZPUR**

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

**P.R. CASE NO. 1244/2019  
U/S 147/447/341/294/323 IPC**

**STATE**

**VS.**

**Dhruba Jyoti Saikia and Others**

FOR PROSECUTION : Smti. Niva Devi, Ld.A.P.P.

FOR THE ACCUSED : S. Das,A. Das, Ld.Counsels.

EVIDENCE RECORDED ON : 18-08-2022

ARGUMENTS HEARD ON : 11-11-2022

JUDGEMENT DELIVERED ON: 11-11-2022

**JUDGMENT**

1. The accused persons A1, A2, A3 and A4 stood trial for offences punishable under Sections 147/447/341/294/323 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 09/11/2018 wherein he stated that on 07/11/18 at around 8:45 pm, the

accused persons verbally abused the son of informant and used obscene words. The accused physically assaulted son of the informant and injured him.

3. The Ejahar was registered as Tezpur P.S Case no 2327/18 u/s 147/447/307/326/379 IPC. The police after investigation submitted charge sheet against the accused persons under section 147/447/341/294/323 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 were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as CrPC). Charges are framed and particulars of 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 PW-1 and other witness as PW2. PW-1 stated that there was a fight among PW2 and the accused persons on that very day. But now the matter is amicably settled among them.
6. PW-2 also stated that there was misunderstanding between him and accused persons. But at present, the dispute is settled among them.
7. Considering testimony of the informant and other 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 CrPC was dispensed with as the prosecution did not adduce any incriminating evidence against them.

8. 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 caused rioting in the house of informant and thereby committed offence u/s 147 IPC?**
- b) **Whether the accused persons caused criminal trespass and thereby committed offence u/s 447 IPC?**
- c) **Whether the accused persons wrongfully restraint the victims and thereby committed offence u/s 341 IPC?**
- d) **Whether the accused persons used obscene words to the victims in public place and thereby committed offence u/s 294 IPC?**
- e) **Whether the accused persons voluntarily caused hurt to the victims and thereby committed offence u/s 323 IPC?**

## **PROSECUTION EVIDENCE**

### **Evidence of the informant**

9. PW1 is the informant. He stated that there was a fight among his son and the accused persons on that very day. But now the matter is amicably settled among them. Hence, he does not wish to continue with the case and he has no objection even if the accused persons are acquitted.
10. PW2 stated that there was misunderstanding among him and accused persons. But at present, the dispute has already been settled among them.
11. The defense declined cross examination of PWs.

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

12. Upon a perusal of the evidence, it is clear that the 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 he has no issue if the accused persons are acquitted of the charges brought against them.
13. As such the prosecution has failed prove that the accused persons have committed the offences u/s 147/447/341/294/323 IPC beyond reasonable doubt.

## **ORDER**

14. In light of the above, it is held that the prosecution has failed to prove the case U/S 147/447/341/294/323 IPC against the accused persons **A1, A2, A3 and A4** 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 11<sup>th</sup> day of November, 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	Mina Borah	Informant
PW2	Himangshu Borah	Other witness

**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