

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.1245 of 2019]

(Details of FIR/ Crime and Police Station)

COMPLAINANT :	State of Assam Or Rumi Saikia W/o Baneswar Saikia R/o- Da-Becheria, P.S.- Tezpur, Dist.- Sonitpur (Assam)
REPRESENTED BY	Smti Niva Devi, Ld. A.P.P.
ACCUSED	1.Gaurab Jyoti Borah S/o- Lt. Tilak Ch. Borah 2.Himngshu Borah S/o- Lt. Tilak Ch. Borah Both are R/o- Da-Becheria, P.S.- Tezpur, Dist.- Sonitpur (Assam)
REPRESENTED BY	Biraj Nath, Ld. Counsel.

APPENDIX -13

Date of Offence	07-11-2018
Date of FIR.	10-11-2018
Date of Charge-sheet	30-11-2018
Date of Offence Explained	03-01-2022
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	Gaurab Jyoti Borah	Nil	Nil	U/S 294/32 3/341 IPC	Acquitted	Nil	Nil
A2	Himangshu Borah	Nil	Nil	U/S 294/32 3/341 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. 1245/2019
U/S 341/294/323 IPC**

STATE

VS.

Gourab Jyoti Borah and Anr.

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

FOR THE ACCUSED : Biraj Nath, Ld. Counsel.

ARGUMENTS HEARD ON : 31-10-2022

EVIDENCE RECORDED ON : 18-08-2022, 31-10-2022

JUDGEMENT DELIVERED ON: 11-11-2022

JUDGMENT

1. The accused persons A1 and A2 stood trial for offences punishable under Sections 341/294/323/34 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 10/11/2018 wherein she stated that on 07/11/18 at around 8 pm, the accused persons verbally abused the 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 2328/18 u/s 294/325 IPC. The police after investigation submitted charge sheet against the accused persons under section 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). 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-2 and other witness as PW1 and PW3. PW-1 stated that there was a fight among other witnesses and the accused persons on that very day. But now the matter is amicably settled among them.
6. PW-1 and PW3 also stated that there was misunderstanding between them 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 wrongfully restraint the victims and thereby committed offence u/s 341 IPC?**
- b) Whether the accused persons used obscene words to the victims in public place and thereby committed offence u/s 294 IPC?**
- c) 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. PW2 is the informant. She stated that there was a fight among her sons and the accused persons on that very day. But now the matter is amicably settled among them. Hence, she does not wish to continue with the case and she has no objection even if the accused persons are acquitted.
10. PW1 and PW3 stated that there was misunderstanding among them 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 she 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 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 341/294/323 IPC against the accused persons **A1 and A2** 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 11th 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:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Dhrubajyoti Saikia	Other witness
PW2	Rumi Saikia	Informant
PW3	Hirak Jyoti Saikia	Other witness

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1	Exhibit P1/PW2	FIR
2	Exhibit P1(1)/PW2	Signature of PW2

B. Defence:

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

C. Court Exhibits:

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

D. Material Objects

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

Smti. Darshana Nath
Judicial Magistrate First Class, Tezpur