

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

16.12.2022

[ PR Case No. 34 of 2019]

(Details of FIR/ Crime and Police Station)

<b>COMPLAINANT :</b>	State of Assam Or Miss Jamila Khatun W/o- Lt. Abdul Maleque R/o- Thelamara Ghat, P.S.- Thelamara, Dist.- Sonitpur (Assam)
<b>REPRESENTED BY</b>	Smti Niva Devi, Ld. A.P.P.
<b>ACCUSED</b>	1. Md. Rashid Ali 2. Md. Lal Miya Both are S/o- Md. Sahed Ali and both are R/o-Katonigaon, P.S.- Thelamara, Dist.- Sonitpur (Assam)
<b>REPRESENTED BY</b>	P. Biswas and S. Nath, Ld. Counsel.

**APPENDIX -13**

Date of Offence	11-03-2018
Date of FIR.	12-03-2018
Date of Charge-sheet	30-03-2018
Date of Offence Explained	13-09-2021
Date of commencement of evidence	03-12-2022
Date on which judgment is reserved	-
Date of the Judgment	16-12-2022
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	Md. Rashid Ali	Nil	Nil	U/S 448/294 /506/34 of IPC.	Acquitted	Nil	Nil
A2	Md. Lal Miya	Nil	Nil	U/S 448/294 /506/34 of IPC.	Acquitted	Nil	Nil

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

**PRESENT: DARSHANA NATH, MA, LL.M, JMFC,  
Tezpur, Sonitpur**

**P.R. Case No. 34/2019**

u/s 448/294/506/34 of IPC.

**STATE**

**VS.**

**Md. Rashid Ali & anr.**

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

FOR THE ACCUSED: P. Biswas and S. Nath, Ld. Counsel.

EVIDENCE RECORDED ON: 03-12-2022

ARGUMENT HEARD ON: 03-12-2022

JUDGEMENT DELIVERED ON: 16-12-2022

**JUDGMENT**

1. The accused person A1 AND A2 stood trial for offences punishable under Section 448/294/506/34 of Indian Penal Code.

**Information and Investigation**

2. The genesis of this case has its roots with the lodging of Ejahar by informant on 12-03-2018 wherein she stated that the accused persons are abused her and threatened her to kill.

3. The Ejahar was registered as Thelamara P.S Case no 47/2018 u/s 448/294/506/34 of IPC. The police after investigation submitted charge sheet against the accused persons under section 448/294/506/34 of 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). The offence 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 well as victim 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 is 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**

- a) **Whether the accused persons in furtherance of common intention committed house trespass and thereby committed offence u/s 448/34 IPC?**
- b) **Whether the accused persons used obscene word to PW1 and thereby committed offence u/s 294/34 IPC?**

- b) Whether the accused persons in furtherance of common intention threatened to kill the informant and thereby committed offence u/s 506/34 IPC?**

### **PROSECUTION EVIDENCE**

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

7. PW1 is the informant. She stated that she lodged the ejahar about 4 years back against accused persons due to some misunderstanding. Currently the matter has been settled amicably between both the sides. Hence, he does not wish to continue with the case and he has no objection even if the accused persons are acquitted.

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

8. 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 since then the matter has been resolved among the two parties amicably and has no issue if the accused persons are acquitted of the charges brought against them.
9. As such the prosecution has failed prove that the accused persons have committed the offences u/s 448/294/506/34 of IPC.

### **ORDER**

10. In light of the above, it is held that the prosecution has failed to prove the case 448/294/506/34 of IPC against the accused persons 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 16<sup>th</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	Miss Jamila Khatun	Informant

**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	Signatures 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