

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

05.12.2022

[PR Case No.397 of 2018]

(Details of FIR/ Crime and Police Station)

COMPLAINANT :	State of Assam Or Md. Abdul Malek @ Abdul Khalek S/o Lt. Asiruddin R/o- Keherukhanda Pathar, P.S.- Thelamara, Dist.- Sonitpur (Assam)
REPRESENTED BY	Smti Niva Devi, Ld. A.P.P.
ACCUSED	Musstt. Jahanara Khaton W/o- Md Jalaluddin R/o- Keherukhanda Pathar, P.S.- Thelamara, Dist.- Sonitpur (Assam)
REPRESENTED BY	N. Uddin, M. Rahman, F. Islam, R. Ali, Ld. Counsels.

APPENDIX -13

Date of Offence	23-02-2017, 24-02-2017
Date of FIR.	24-02-2017
Date of Charge-sheet	28-02-2017
Date of Offence Explained	01-04-2019
Date of commencement of evidence	05-11-2022
Date on which judgment is reserved	19-11-2022, 30-11-2022
Date of the Judgment	05-12-2022
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	Musstt. Jahanara Khatoon	Nil	Nil	U/S 447/29 4/323 of IPC	Acquitted	Nil	Nil

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

PRESENT: DARSHANA NATH, AJS, Tezpur, Sonitpur

PR CASE NO: 397/18

U/S 447/294/323 IPC

STATE

VS.

Jahanara Khaton

FOR PROSECUTION: Smti. Niva Devi

FOR THE ACCUSED: N. Uddin, M. Rahman, F. Islam, R. Ali,
Ld. Counsels.

EVIDENCE RECORDED ON : 05-11-2022

HEARD ARGUMENTS ON : 05-11-2022

JUDGEMENT DELIVERED ON: 05-12-2022

JUDGMENT

1. The accused person A1 stood trial for offences punishable under Sections 447/294/323 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/PW1 on 28/02/2017 wherein he stated that the accused person entered his house forcefully and used obscene word and threatened to kill him.
3. The Ejahar was registered as Thelamara P.S Case no 31/17 u/s 447/294/325/379/506 IPC. The police after

investigation submitted charge sheet against the accused person under section 447/294/323 IPC.

Trial

4. Cognizance was taken of the charge sheeted offences and process was issued upon which the accused person appeared and copy of the relevant documents was furnished to him in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as CrPC). Particulars of offences u/s 447/294/323 IPC are explained to the accused person to which he pleaded not guilty and claimed to be tried.
5. In this case, the prosecution has examined the informant as PW1 and PW2. PW1 stated that the accused fought with his wife, i.e., PW2, but the dispute has amicably settled between them and he does not want to continue the case. PW1 has no objection if the accused is acquitted.
6. PW2 stated that PW1 filed the case out of misunderstanding. Now, the matter has been resolved between them. She has no objection if the accused is acquitted.
7. Considering testimony of the informant and other witnesses, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused person u/s 313 CrPC dispensed with as the prosecution did not adduce any incriminating evidence against her.
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 person committed criminal trespass to the house of PW1 and thereby committed offence u/s 447 IPC?**
- b) Whether the accused person used obscene word to PW2 and thereby committed offence u/s 294 IPC?**
- c) Whether the accused voluntarily caused hurt to PW1 and PW2 and thereby committed offence u/s 323 IPC?**

PROSECUTION EVIDENCE

Evidence of the informant

9. PW1 is the informant. He stated that the accused fought with his wife, i.e., PW2, but the dispute has amicably settled between them and he does not want to continue the case. PW1 has no objection if the accused is acquitted.
10. PW2 stated that PW1 filed the case out of misunderstanding. Now, the matter has been resolved between them. She has no objection if the accused is acquitted.
11. The cross examination of PW1 and PW2 is declined.

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 they have no issue if the accused person is acquitted of the charges brought against him.

13. As such the prosecution has failed prove that the accused person has committed the offences u/s 447/294/323 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 447/294/323 IPC against the accused person A1 beyond all reasonable doubt. Hence, she is hereby **acquitted** and set at liberty forthwith.

However, her bail bond 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 5th 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:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Abdul Malek @ Abdul Khalek	Complainant.
PW2	Ayesha Khatoon	EYE 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/PW1	FIR

B. Defence:

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

C. Court Exhibits:

Sr. No	Exhibit Number	Description
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Nil	Nil	Nil
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D. Material Objects

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

Smti. Darshana Nath
Judicial Magistrate First Class, Tezpur