

IN THE COURT OF JMFC-20,
SONITPUR, TEZPUR

Present: **Shri Vishek Bhuyan,**
AJS

[Date of the Judgment]
02-11-2022

[PR Case No : 615 of 2021]
[GR Case No.. 3270 of 2020]

(Details of FIR/ Crime and Police Station)

Complainant :	STATE OF ASSAM OR Smt. Buli Mandal
REPRESENTED BY	Learned A.P.P Sri Niranjan Saikia
ACCUSED PERSONS	A1. Sri Papu Borah A2. Sri Apu Borah Both are S/o- Khireswar Borah Vill- Majgaon, Tamuli Chuburi P.S- Tezpur, District- Sonitpur
REPRESENTED BY	Ld. Advocete F. Haque

FORM B

Date of Offence	25.10.2020
Date of FIR.	26.10.2020
Date of Charge-sheet	30.11.2020
Date of charge framed	26.05.2022
Date of commencement of evidence	09.09.2022
Date on which judgment is reserved	NIL
Date of the Judgment	02.11.2022
Date of the Sentencing Order, if any	NIL

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 438, Cr.P.C.
A1.	Papu Borah	NA	03.02.22	448/294/354(A)/324/506/34	Acquitted	NIL	
A2.	Apu Borah	NA	03.02.22	448/294/354(A)/324/506/34	Acquitted	NIL	

Form C**A. Prosecution**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Pallavi Bhuyan	Other witness (Informant)
PW 2	Krishna Bhuyan	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 P 1	FIR
2	Exhibit P 1(1)	Signatures of informant

A. Defence:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Court Exhibits

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Material Objects:

Sr. No	Material Object Number	Description
NIL	NIL	NIL

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS**

TEZPUR, ASSAM

P.R CASE NO: 615 OF 2021

G.R CASE NO: 3270 OF 2020

**U/Sec 448/294/354(A)/324/506/34 of the Indian
Penal Code**

State of Assam

.....PROSECUTOR

-Vs-

A1. Sri Papu Borah

A2. Sri Apu Borah

Both are S/o- Khireswar Borah

Vill- Majgaon, Tamuli Chuburi

P.S- Tezpur, District- Sonitpur

.....ACCUSED PERSONS

PRESENT: VISHEK BHUYAN, LL.M, AJS
JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR

FOR PROSECUTION: LD. APP. Sri Niranjan Saikia

FOR DEFENCE: Ld. Advocete F. Haque

EVIDENCE RECORDED: 09.09.2022

ARGUMENTS HEARD ON: 20.10.2022

JUDGEMENT DELIVERED ON: 02.11.2022

JUDGMENT

- 1.** The accused persons Sri Papu Borah and Sri Apu Borah stood trial for offences punishable under Sections 448/294/354(A)/324/506/34 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 Smt. Pallabi Bhuyan wherein she stated that on 25.10.2020 at about 10:30 PM the accused persons entered her house forcefully and verbally abused her with obscene words as well as threatened her. Furthermore, the accused persons sexually assaulted her by putting their hands on her private parts. Hence this case.

3. The Ejahar was received and registered as Tezpur P.S Case no. 2017/20 U/s 448/294/354(A)/324/325/506/34/34 of IPC. The police after investigation submitted charge sheet against the accused persons under Sections 448/294/354/(A)/324/506/34 of IPC.

Trial

4. Cognizance was taken of the Charge sheeted offences and processes were issued upon which the accused persons appeared and copies of the relevant documents were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as Cr.P.C). Accordingly, charges under the aforesaid section has been framed 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. 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 Cr.P.C 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 point of determination.

POINT FOR DETERMINATION

i) Whether the accused persons in furtherance of common intention on 25.10.2020 at 10:30 PM entered into the house of the informant with intend to commit an offence and intimidated annoyed and insulted the informant and thereby committed an offence punishable U/s 448/34 of IPC ?

ii) Whether the accused persons in furtherance of common intention on 25.10.2020 at 10:30 PM verbally abused the informant with obscene words in a public place and thereby committed an offence punishable U/s 294/34 of IPC ?

iii) Whether the accused persons in furtherance of common intention on 25.10.2020 at 10:30 PM made physical contact with the informant by touching her private parts and thereby committed an offence punishable U/s 354(A)/34 of IPC ?

Iv) Whether the accused persons in furtherance of common intention on 25.10.2020 at 10:30 PM voluntarily caused hurt to victim Krishna Bhuyan using a dao as a weapon of offence which is likely to cause grievous injury to the victim and thereby committed an offence punishable U/s 324/34 of IPC ?

V) Whether the accused persons in furtherance of common intention on 25.10.2020 at 10:30 PM threatened the informant and the victim with injury to their person and property with intent to cause to them and intimidated them and thereby committed an offence punishable U/s 506/34 of IPC ?

PROSECUTION EVIDENCE
Evidence of the informant

7. P.W 1 Pallavi Bhuyan states that she is the informant and she knows the accused persons. They lives near informant's house. The incident took place in 2020 at about 10:30 PM at her house. Her nephew Krishna Bhuyan had some enmity with the accused persons. ON the day of the incident accused persons had come to their house looking for him which let to an altercation

between her nephew and the accused persons due to misunderstanding. Some pushing and shoving also took place due which Krishna Bhuyan sustained injuries. Consequently, she filed the ejahar. **In the cross examination** she stated that she has no objection if the accused persons are acquitted from the case. She filed this case due to a misunderstanding. She does not wish to continue with the case.

8. P.W 2 Krishna Bhuyan states that he knows the informant. Informant is his paternal aunt. He knows the accused, they are from his village. The incident took place in 2020. A misunderstanding took place between him and the accused persons. As a result of this some pushing and shoving took place. Due to which he sustained injury on his finger. He does not know how he sustained the injury as a crowd gathered at the place of occurrence. Presently, the matter has been settled between them. **In the cross examination** he stated that he has no objection if the accused persons are acquitted from the instant case.

DISCUSSIONS, DECISIONS AND REASONS
THEREOF

9. Upon perusal of the evidence it is seen that the case was lodged in due to some misunderstanding but since then the matter has been settled between them amicably and the informant does not wish to proceed with the case. Further, the informant has no objection if the accused persons are acquitted from this case.

10. As such the prosecution has failed to prove that the accused persons have committed the offences under sections 448/294/354(A)/324/506/34 of IPC beyond reasonable doubt.

ORDER

In light of the above, it is held that the prosecution has failed to prove the case U/s 448/294/354(A)/324/506/34 of IPC against the accused persons Papu Borah and Apu Borah beyond all reasonable doubt. Hence, he is hereby **acquitted** and set at liberty forthwith.

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

Given in my hand and under the seal of this court
on this the 02th day of November, 2022.

Typed by Me:

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur

APPENDIX

Prosecution Witness:

PW-1: Pallavi Bhuyan.

PW- 2: Krishna Bhuyan.

Defence Witness:

NIL

Prosecution Exhibits:

Ext- P1:Ejhar

Ext-P1(1) : Signature of the informant.

Defence Exhibits:

NIL

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur.