

APPENDIX -12

<p style="text-align: center;">IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR</p> <p style="text-align: center;">Present: Smt. Priyanka Saikia, JMFC</p> <p style="text-align: center;">(Date of the Judgment)</p> <p style="text-align: center;">17-11-2022</p> <p style="text-align: center;">(CASE NO- P.R. 726/2021)</p> <p style="text-align: center;">(Details of FIR/Crime and Police Station)</p>	
Complainant	State of Assam or Md. Faruk Hussain
Represented By	Smti. Bandana Baro, Learned APP
Accused persons	1. Md. Irsad Ahmed S/o- Md. Sahid Ahmed 2. Md. Touhid Ahmed S/o- Late Saleh Ahmed Both are residents of village Nepalipatty P.S.- Tezpur Dist- Sonitpur, Assam
Represented by	Shri Abhijit Bhuyan

APPENDIX -13

Date of offence	27-03-2021
Date of FIR	27-03-2021
Date of charge sheet	30-04-2021
Date of offence explanation	26-11-2021
Date of commencement of evidence	03-11-2022
Date on which judgment is reserved	03-11-2022
Date of judgment	17-11-2022
Date of the sentencing order, if any	NIL

Accused Details

Rank of 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.
A-1	Md. Irsad Ahmed	NIL	26-11-21	Sections 323, 352, 294, 506, 34 of IPC	Acquitted	NIL	NIL
A-2	Md. Touhid Ahmed	NIL	26-11-21	Sections 323, 352, 294, 506, 34 of IPC	Acquitted	NIL	NIL

APPENDIX -14**LIST OF PROSECUTION / DEFENSE / COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Md. Faruk Hussain	Informant

B. Defense 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/ DEFENSE/ COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1	Ext. 1	Ejahaar
2	Ext. 1(1)	Signature

B. Defense:

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

JUDGMENT

1. The informant, Md. Faruk Hussain had lodged the ejahar in this case on 27.03.2021 alleging that on the sameday at about 08.30 A.M. when he opened his Garage/workshop and went for taking medicine at his residence, A-1 & A-2 trying to steal battery and other vehicle parts from his garage. When he shouted, they attacked him and his son. Both A-1 & A-2 tried to stab Iron rod to one of his son. They caught his son and beat him very badly. They even punched him on his chest and stomach. They even abusing him with filthy languages and they also threatened them with dire consequence. Hence, this case.

2. Upon receipt of the ejahar, the police registered Tezpur Police Station case no: 630/2021 under Section 379, 511, 325, 352, 294, 506, 34 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against the A-1 & A-2 under Sections 323, 352, 294, 506, 34 of IPC.

3. A-1 & A-2 entered trial and after furnishing the with the copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against them, offence under Sections 323, 352, 294, 506,

34 of IPC was explained to them to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant, Md. Faruk Hussain as PW-1 and also exhibited the ejahar. The statement of the A-1 & A-2 under Sec. 313 of Cr.P.C was dispensed with due to the lack of incriminating materials against them. Defense declined to adduce evidence. I have heard the arguments for both sides.

5. Upon hearing and on perusal of the case record I have framed the following points for determination-

(I) Whether, on 27.03.2021 at about 08.30 A.M. A-1 & A-2 in furtherance of their common intention, voluntarily caused hurt to the informant and thereby committed an offence punishable under Sec. 323, 34 of Indian Penal Code?

(II) Whether, on the same date and time, A-1 & A-2 in furtherance of their common intention, committed criminal force to the informant and thereby committed an offence punishable under Sec. 352, 34 of Indian Penal Code?

(III) Whether, on the same date and time, A-1 & A-2 in furtherance of their common intention, uttered obscene act and word to the informant and his sons and thereby committed an offence punishable under Sec. 294 of Indian Penal Code?

(IV) Whether, on the same date and time, A-1 & A-2 in furtherance of their common intention, committed criminal intimidation by threatening to cause death of the

informant, with intent to cause alarm to him and thereby committed an offence punishable under Sec. 506 of Indian Penal Code?

DISCUSSION, REASONS AND DECISION THEREOF:

6. In the course of the evidence adduced by the prosecution, it emerged that the informant/PW-1, Md. Faruk Hussain, who was examined as PW-1 has stated that there was an altercation with A-1 & A-2. He further stated that the matter was amicably settled between them as A-1 & A-2 are his neighbour and he has no grudge against them. He does not want to proceed with the case and if A-1 & A-2 are acquitted from the case he does not have any objection. PW-1 has proved his F.I.R. as Ext-1 and his signature therein as Ext. 1(1).

7. In the given case, PW-1 has categorically deposed that at present, he does not want to proceed with this case. Therefore, there is no specific incriminating material against the A-1 & A-2 in the testimony of PW-1.

8. Since the informant who launched the prosecution of A-1 & A-2 has not incriminated them, the case of the prosecution has fallen flat on its face. Therefore, upon perusal of the evidence on record, the Court has reached the conclusion that Prosecution has not been able to prove its case against A-1 & A-2.

ORDER

9. Situated thus, A-1 & A-2 are acquitted of the offence under Sections 323, 352, 294, 506, 34 of IPC and set at liberty forthwith.

10. The bail bond of A-1 & A-2 will remain in force for 6 (six) months from today by virtue of Sec. 437A Cr.P.C.

Given under my hand and seal of this court on this 17th day of November, 2022 at Sonitpur, Assam.

(Priyanka Saikia, AJS)
Judicial Magistrate 1st Class
Sonitpur, Tezpur