

APPENDIX -12

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| IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR Present: Smt. Priyanka Saikia, JMFC (Date of the Judgment) 10-06-2022 (CASE NO- P.R. 904/2018) (Details of FIR/Crime and Police Station) | |
| Complainant | State of Assam or Sri Dipak Kr. Kalita |
| Represented By | Smti. Bandhana Boro, Learned APP |
| Accused persons | 1. Sri Paljit Saikia 2. Sri Pranjal Saikia Both are sons of Jatin Saikia R/o- Dihingia Kalita Gaon P.S.- Tezpur Dist- Sonitpur, Assam |
| Represented by | N. Sarma |

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|--------------------------------------|------------|
| Date of offence | 10-01-2018 |
| Date of FIR | 10-01-2018 |
| Date of charge sheet | 31-01-2018 |
| Date of offence explanation | 18-11-2019 |
| Date of commencement of evidence | 09-05-2022 |
| Date on which judgment is reserved | 10-06-2022 |
| Date of judgment | 10-06-2022 |
| 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 | Sri Paljit Saikia | NIL | 02-01-19 | Sections 447, 294, 323, 34 IPC | Acquitted | NIL | NIL |
| A-2 | Sri Pranjal Saikia | NIL | 02-01-19 | Sections 447, 294, 323, 34 IPC | Acquitted | NIL | NIL |

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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 | Monmohan Kalita | 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 | Ext. 1 | Ejahaar |

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 |

J U D G M E N T

1. The informant, Sri Dilip Kumar Kalita had lodged the ejahar in this case on 10.01.2018 alleging that on same day at about 06.00 PM, one group of local women came to her to take her helper Smti Kiran Kalita to the public place for some discussion. Then the informant consoled them that the informant would take her to the place and therefore, the group of local women left from her house. Thereafter, A-1 & A-2 with some other persons entered my house and started abusing her with filthy language and pulled her helper from informant's house. When informant tried to stop them, they attacked her by a Dao. By chance, she rescued from them but they threatened her to dire consequence. Hence, this case.

2. Upon receipt of the ejahar, the police registered Sonitpur Police Station case no: 76/2018 under Section 141,447,294,352,336,506 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against A-1 & A-2 , under Sections 447, 294, 323, 34 of IPC.

3. A-1 & A-2 entered trial and after furnishing them with the copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against A-1 & A-2 , charge under Sections 447, 294, 323, 34 of IPC was framed and was explained to A-1

& A-2 to which they pleaded not guilty and claimed to be tried.

4. The prosecution could not examine the informant as he was expired on 30.07.2021. Prosecution examined Shri Manmohan Kalita as PW-1 and also exhibited the ejahar. The statement of A-1 & A-2 under Section 313 of Cr.P.C was recorded and his plea was total denial. Defence 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 the A-1 & A-2 , on or about the 10.01.2018 at about 06.00 PM at village Dihinga Kalita Gaon under Tezpur Police Station, Sonitpur, in furtherance of common intention had committed a crime of criminal trespass to informant's house and thereby committed an offence under Section 447, 34 of the Indian Penal Code?

(II) Whether the A-1 & A-2 , on or about the 10.01.2018 at about 06.00 PM at village Dihinga Kalita Gaon under Tezpur Police Station, Sonitpur, in furtherance of common intention uttered obscene language to the informant and thereby committed an offence under Section 294, 34 of IPC?

(III) Whether the A-1 & A-2 , on or about the 10.01.2018 at about 06.00 PM at village Dihinga Kalita Gaon under

Tezpur Police Station, Sonitpur, in furtherance of common intention, voluntarily caused simple hurt to him and thereby committed an offence punishable under Section 323, 34 of Indian Penal Code?

DISCUSSION, REASONS AND DECISION THEREOF:

6. In the course of the evidence adduced by the prosecution, it emerged that Shri Manmohan Kalita, who was examined as PW-1 is the father-in-law of the deceased informant and he has stated that A-1 & A-2 are deceased informant's neighbour. He further stated that the matter was amicably settled between deceased informant and A-1 & A-2. PW-1 has proved her F.I.R. as Ext-1 and identified the signature of deceased informant.

7. Since the informant who launched the prosecution of A-1 & A-2 has expired and PW-1 has not incriminated A-1 & A-2, the case of the prosecution has fallen flat on its face. Hence, the points for determination are decided in the negative.

ORDER

8. Considering the discussions made above and after all deliberations, it can be safely presumed that the prosecution has failed to drive home the guilt of A-1 & A-2. Hence, it is held that the prosecution has failed to prove its case and A-1 & A-2 are acquitted of the offence under

Section 447, 294, 323, 34 of the Indian Penal Code and set at liberty forthwith.

9. The bail bond of the accused persons shall remain in force for 6 (six) months from today by virtue of Sec. 437(A) Cr.P.C.

Given under my hand and seal of this court on this 10th day of June, 2022 at Sonitpur, Assam.

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