

P.R Case No-14 of 2019
(State of Assam Vs Sri Arun Nath & Anr)

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR

P. R. Case No-14 of 2019

Under section-294/352/323/34 of I.P.C

Present:- **Sri N. J. Haque, AJS,**
Chief Judicial Magistrate,
Sonitpur, Tezpur

State of Assam

-Vs-

1. Sri Arun Nath
2. Smt. Lakhi Devi

Both are R/O:- Besseria Pukhuria

P/S:- Tezpur

Dist:- Sonitpur, Assam

.....Accused Persons

Advocate appeared:

Mr. N. K. Mishra, Addl. P.P For the State

Mr. S. Borah & Anr, Ld. Advocates.....For the accused persons

Evidence recorded on	:- 27.02.2020 & 03.01.2022
Date of Offence Explanation	:- 18.01.2020
Argument heard on	:- 03.01.2022
Judgment delivered on	:- 03.01.2022

J U D G M E N T

History of Prosecution's Case

1. Prosecution case appears to be in a nutshell is that on 07.06.2018 one Smt. Jonali Das Devi lodged an ejahar before the O/C of Tezpur PS through I/C of Bebejia Police Outpost alleging inter alia that on 03.06.2018 at about 4 PM at a place Besseria Pukhuria when her son named Sri Prabal Kumar Nath along with her husband named Sri Lila Kanta Nath had gone to the house of the accused persons to enquire about the second marriage, thereafter, the accused persons started using filthy languages towards them. It is also stated that the accused persons further physically assaulted her son and strangulated his neck with the

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intention to cause hurt and drove them out from their house. It is further stated that the accused persons also torn the school bag of her son.

"INVESTIGATION"

2. On receipt of the ejahar, Tezpur P.S Case No-1198 of 2018 under section-494/294/352/324 of I.P.C was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s-294/352/323/34 of I.P.C against both the accused persons.

CHARGE & TRIAL

3. In pursuant to the court's process, the accused persons appeared before the court and they were allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above named accused persons. After hearing both side, particulars of offences u/s-294/352/323/34 of I.P.C was read over and explained to the accused persons by my Ld. Predecessor in office, to which they pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused persons examined as many as three numbers of witness including informant and victim in support of this case. Considering the testimonies of informant and victim, the prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Examination of accused under section-313 of Cr.P.C is dispensed with as from the testimonies of the prosecution witnesses, nothing implicating disclosed against the accused.

ARGUMENT

5. I have heard arguments of both sides, gone through the case record in the backdrop of evidences presented before this court by prosecution side.
6. **The points for determination in this case are:-**

- (i.) Whether on 03.06.2018 at about 4 PM at a place called Besseria Pukhuria, both the accused persons in furtherance of their common intention scolded the son of informant named, Sri Prabal Kumar Nath using filthy languages and thereby committed an offence punishable u/s-294/34 of IPC?

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- (ii.) Whether on the same date, time and place both the accused persons in furtherance of their common intention assaulted the victim Sri Prabal Kumar Nath being the son of informant and thereby committed an offence punishable u/s-352/34 of IPC?
- (iii.) Whether on the same date, time and place the above-named accused persons in furtherance of their common intention voluntarily caused simple hurt upon the body of victim named Sri Prabal Kumar Nath and thereby committed an offence of cruelty upon her under section-323/34 of I.P.C?

DECISION AND THE REASONS THEREON:

7. The informant in his ejahar opposed that on 03.06.2018 at about 4 PM at a place Besseria Pukhuria when her son named Sri Prabal Kumar Nath along with her husband named Sri Lila Kanta Nath had gone to the house of the accused persons to enquire about the second marriage, thereafter, the accused persons started using filthy languages towards them and further physically assaulted her son and strangulated his neck with the intention to cause hurt and drove them out from their house. In this case prosecution side to prove the case examined three numbers of witnesses including the informant and the victim in support of this case. I have carefully travelled through the testimonies of the witnesses in the backdrop of entire prosecution case and it finds:-
8. PW-1, Smt. Jonali Das Devi being the informant of this case deposed before this court that she knows the accused persons. She also deposed that on 03.06.2018 at about 4 PM, when she went to her matrimonial house hearing that her husband had remarried, a quarrel took place between them on some matter. She also deposed that the quarrel took place between them due to misunderstanding. She further deposed that a scuffle also took place between them for which her son fell down and sustained injury. She identified her ejahar as Ext-1 wherein she put her signature as Ext-1(1). PW-1 in her cross-examination testified that as the accused are her family members, they have

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resolved the misunderstanding and share a cordial relationship. She admitted that she has no grievances against the accused persons.

9. PW-2, Smt. Nabanita Deka deposed before the court that she knows the informant and the accused persons of this case. She also deposed that the incident took place around 3 years back one day at night in the house of Jonali Devi. She further deposed that she heard that the accused persons had a quarrel with the informant's son Prabal Nath. She further deposed that at the time of incident accused persons physically assaulted the informant's son named Sri Prabal Nath and thereafter, the informant called her over telephone and accordingly she along with informant went to Bebejia OP. Thereafter, informant's son Prabal Nath was taken to Hospital. PW-2 in her cross-examination testified that she has not seen the incident. She also deposed that accused persons are the relative of Prabal Nath. She further deposed that now they have settled the dispute outside the court.
10. PW-3, Sri Prabal Kumar Nath being the victim of this case deposed before the court that the informant of this case is his mother and the accused persons are known to him. He also deposed that the incident took place around 3 years back one day at their house and on the date of alleged incident a quarrel took place between his mother and the accused and due to misunderstanding his mother lodged the ejarah against the accused persons. PW-3 in his cross-examination testified that accused persons physically not assaulted him.
11. I have carefully travelled through the testimonies of PW-1 and PW-3 being the informant and the victim in the back drop of the entire prosecution case and it finds that informant (PW-1) and her son (PW-3) in their evidences contradicted the entire prosecution story by way of not implicating the accused persons with the alleged incident. PW-1 in her evidence categorically deposed that she on misunderstanding lodged the ejarah against the accused persons. PW-1 further admitted in her cross-examination that she has no grievances against the accused persons as both the accused persons are her family members. PW-3 being the victim of this case admitted in his evidence that a quarrel took place between his mother (PW-1) and the accused persons and his mother due to

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misunderstanding lodged the ejahar against the accused persons. PW-3 further admitted in his cross-examination that the accused persons have not physically assaulted him. PW-1, PW-2 and PW-3 deposed before the court that they have settled the dispute with the accused persons outside the court.

12. To sum up the testimonies of the prosecution witnesses, it reveals before this court that the all three prosecution witnesses appears to be contradictory with the entire contention of the ejahar and their testimonies cannot be relied upon.
13. In view of the above evidence on record, I am of the opinion that prosecution has failed to prove the charge against the accused persons beyond reasonable doubt and as such the accused persons are acquitted from the charges under section-294/352/323/34 of IPC and sets at liberty. Surety is extended for six months in view of section-437A of Cr PC.
14. Accordingly, the case is disposed of. Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 03rd day of January, 2022 at Tezpur.

(Sri N. J. Hoque)
Chief Judicial Magistrate,
Sonitpur: Tezpur

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ANNEXURE

1. Witnesses for Prosecution:-

PW-1:- Smt. Jonali Das Devi

PW-2:- Sri Nabanita Deka,

PW-3:- Sri Prabal Kumar Nath,

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- Ejahar

Ext-1(1) :- Signature of PW-1

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur