

**P.R Case No-1588 of 2019  
(State of Assam Vs Sri Shyam Singh)**

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR AT TEZPUR**

**P. R. Case No-1588 of 2019**  
(Under section-448/294/323 of I.P.C)

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

State of Assam  
-Vs-  
Sri Shyam Singh  
S/O:- Late Ramchandra Singh  
R/O:- Dangabasti  
P/S:- Dhekiajuli  
Dist:- Sonitpur .....Accused Person

**Advocate appeared:**

Mr. N. K. Mishra, Addl. P.P..... For the State  
Mr. Diplu Baruah, Ld. Advocate..... For the accused person

Evidence recorded on :- 10.01.2022  
Offence Explained on :- 10.01.2022  
Argument heard on :- 10.01.2022  
Judgment delivered on :- 10.01.2022

**J U D G M E N T**

**History of Prosecution's Case**

1. Prosecution case appears to be in a nutshell is that, one Smt. Umeshwari Orang lodged an Ejarah before the O/C of Dhekiajuli PS alleging inter alia that on 14.03.2019 at about 4 PM, when her son Suren Orang was busy at work in the shop at Dangabasti Chawk, the accused without any reason started abusing her son using filthy languages. It is also stated that the accused also forcefully entered the shop where her son was working without

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any permission and physically assaulted her son with bare hand and due to that her son sustained severe injury.

**"INVESTIGATION"**

2. On receipt of the ejahar, Dhekiajuli P.S Case No-204 of 2019, under section-448/294/325 of Indian Penal Code was registered and investigation into. On completion of the investigation, the Investigating Officer of this case submitted charge-sheet under section-448/294/323 of I.P.C against the above-named accused person.

**CHARGE & TRIAL**

3. In pursuant to the court's process, the accused person appeared before the court and he was allowed to go on bail. Copies u/s-207 of CrPC was furnished to him. After hearing both side, particulars of offences u/s-448/294/323 of I.P.C was read over and explained to the accused person by my Ld. Predecessor in office, to which he pleaded not guilty and claimed to be tried.

**STATEMENT OF DEFENCE**

4. The prosecution side to prove the guilty of the accused person examined only two witnesses in support of this case. On perusal of the entire case record, it disclosed that instant case is pending since from the year 2019 and till date only one witness was examined. On meticulous perusal of the entire case record, it disclosed that this court on several occasions issued summons upon the witnesses including informant named Smt. Umeshwari Orrang and consequently the E/O submitted report stating that the informant had expired. One photocopy of medical report issued by T.M.C.H. Tezpur found enclosed with case record regarding the death of informant. Even the victim named Sri Suren Orang of this case also admitted in his evidence that his mother, who is the informant of this case died two months back. The prosecution side has already examined the victim of this case and he has not implicated the accused of this case in his evidence. Hence, considering the

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submissions of prosecution side as well as present facts and circumstances of the case, this court finds it sufficient to close the evidence, stopping the further proceeding in view of Section-258 of CrPC. Accordingly, evidence is closed and further proceeding is stopped. Examination of accused under section-313 of Cr.P.C is dispensed with as from the testimony of the prosecution witness 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 the prosecution side.
6. **The points for determination in this case are:-**
  - (i.) Whether on 24.03.2019 at about 04:00 PM at a place called Dangabasti under Dhekiajuli PS, the accused, entered into the shop where the son of informant Sri Suren Orang was working with intent to commit an offence and thereby committed an offence punishable u/s-448 of IPC?
  - (i.) Whether on the same date, time and place, the accused scolded the informant's son named, Sri Suren Orang using filthy languages and thereby committed an offence punishable u/s-294 of IPC?
  - (ii.) Whether on the same date, time and place, the accused person voluntarily caused simple hurt upon the body of victim Sri Suren Orang, who is the son of the informant and thereby committed an offence punishable u/s-323 of IPC?

**DECISION AND THE REASONS THEREON:**

7. In this case prosecution side to prove the contentions of ejahar examined only the victim in support of this case and the said victim has not deposed anything to support the case of the prosecution side. PW-1, Sri Suren Orang being the victim of this case in his evidence-in-chief simple deposed that the informant is his mother and the accused is known to him. He also deposed

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that his mother died two months back. He further deposed that in the year 2019, his mother had a quarrel with the accused and due to that his mother lodged the ejahar against the accused. The cross-examination of PW-1 was declined by the defence side.

8. I have carefully travelled through the testimony of the victim in the back drop of the entire prosecution case and it finds that the victim in his evidences contradicted the entire prosecution story by way of not implicating the accused person with the alleged incident.
9. Therefore, to sum up the evidences on record, this court finds that the prosecution side failed to adduce any cogent evidences to prove the accusations levelled against the accused person. As we already discussed above, this court on several occasions issued summons upon the witnesses including informant Smt. Umeshwari Orang and consequently the E/O submitted report stating that the informant Smt. Umeshwari Orang had expired and the address of the other witnesses could not be traced out. Accordingly, the witnesses could not be examined and on the submission of prosecution side the evidence was closed u/s-258 CrPC.
10. Therefore, in the light of the aforesaid discussion, it is seen that the court and prosecution side on making huge efforts and endeavour failed to bring the witnesses before the court for their examination and consequently failed to examine them. On scrupulous perusal of the case diary, it disclosed that the statement of the material witnesses recorded u/s 161 of CrPC, also not found to be implicating against the accused person and as such their non-examination before the court not prejudiced the case of prosecution side.
11. To sum up the evidences on record, this court finds that the prosecution side failed to adduce any probable evidence before this court under which involvement of the accused person with the alleged incident may be proved. The evidences offered by the prosecution side specifically failed to implicate the accused person with the alleged incident.

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12. Therefore, in the light of above said evidence offered by the prosecution side is not appears to be implicating against the accused person and trustworthy in nature under which accused person may held guilty for commission of the alleged offence u/s-448/294/323 of IPC.
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 person beyond reasonable doubt and as such the accused person is acquitted from the charge u/s-448/294/323 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 the open court, which is given under my hand and seal of this court on 10<sup>th</sup> day of January, 2022.

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

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**A-N-N-E-X-U-R-E**

1. Witnesses for Prosecution

PW-1 :- Sri Suren Orang, Victim

2. Witnesses for Defence : NIL

3. Court Witnesses : NIL

4. Prosecution Exhibits: NIL

5. Defence Exhibits : NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate  
Sonitpur, Tezpur