

P.R Case No-208 of 2020
(State of Assam Vs Sri Sanjit Biswasarma)

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

P. R. Case No-208 of 2020

Under section-447/294/323/506 of I.P.C

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

State of Assam

–Vs–

Sri Sanjit Biswasarma

S/O:- Sri Sudhan Biswasarma

R/O:- Phulguri Aamtal

P/S:- Rangapara

Dist:-Sonitpur, AssamAccused Person

Advocate appeared:

Mrs. Karabi Das, Asst. P.P..... For the State

Mr. I. Ansari, Ld. Advocate..... For the accused person

Date of Offence Explanation	:- 25.01.2021
Evidence recorded on	:- 07.01.2022
Argument heard on	:- 07.01.2022
Judgment delivered on	:- 07.01.2022

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 03.01.2020, one Sri Ashok Biswasarma lodged an ejahar before the O/C of Rangapara PS alleging inter alia that the accused person left his goat to his cultivation land and due to that the goat of the accused destroyed his cultivation. It is also stated that on 02.01.2020 during evening time he caught the goats of the accused person in his agricultural land and thereafter, the accused illegally entered into his house and started abusing him with filthy language. It is also stated that the accused also physically assaulted him and further threatened him of dire consequences.

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"INVESTIGATION"

2. On receipt of ejahar, Rangapara P.S Case No-02 of 2020, under section-447/294/325/506/34 of Indian Penal Code was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s-447/323/294/506 of Indian Penal Code against the accused person named Sri Sanjit Biswasarma.

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 the above named accused person. After hearing both side, particulars of offences u/s-447/323/294/506 of Indian Penal Code 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 the informant-cum-victim. Considering the testimony of the informant-cum-victim, prosecution side declined to adduce further evidence before this court. Examination of accused under section-313 of Cr.P.C is dispensed with as from the testimony of the informant-cum-victim 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 02.01.2020 during evening time accused person illegally entered into the house of the informant situated at Phulguri Aamtol Bengali Basti with intend to commit an offence and thereby committed an offence punishable u/s-447 of IPC?
 - (ii.) Whether on the same date, time and place, accused person, scolded the informant using filthy languages and thereby committed an offence punishable u/s-294 of IPC?

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- (iii.) Whether on the same date, time and place the above-named accused person voluntarily caused simple hurt upon the body of informant-cum-victim Sri Ashok Biswasarma and thereby committed an offence of cruelty upon her under section-323 of I.P.C?
- (iv.) Whether on the same date, time and place, accused person, criminally intimidated the informant by way of showing fear of taking away his life and thereby committed an offence punishable u/s-506 of IPC?

DECISION AND THE REASONS THEREON:

7. The informant –cum- victim in her ejahar opposed that on the date of alleged incident the accused person left his goat to his cultivation land and due to that the goat of the accused destroyed his cultivation. It is also stated that on 02.01.2020 during evening time he caught the goats of the accused person in his agricultural land and thereafter, the accused illegally entered into his house and started abusing him with filthy language and further physically assaulted him and also threatened him of dire consequences. In this case prosecution side to prove the case examined only the informant-cum-victim of this case. I have carefully travelled through the testimony of the informant–cum-victim in the backdrop of entire prosecution case and it finds:-
8. PW-1, Sri Ashok Biswasarma being the informant–cum- victim of this case deposed before this court that he knows the accused person of this case. He also deposed that the incident took place in the year 2020 and on the date of alleged incident one day, he had an altercation with accused over the matter of some goat and due to misunderstanding, he lodged the ejahar against accused. He also deposed that now, he has amicably settled the dispute with the accused person outside the court and therefore, he does not want to proceed further with the case against the accused person. He identified his ejahar as Ext-1 wherein he put his signature as Ext-1(1). PW-1 in his cross-examination testified that he does not have any objection if the accused gets acquitted from this case.

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- 9.** I have carefully travelled through the testimony of PW-1 in the back drop of the entire prosecution case and it finds that PW-1 in her evidence contradicted the entire contention of the prosecution story by way of not implicating the accused person with the alleged incident. PW-1 in his evidence categorically deposed that he lodged the ejahar against the accused out of misunderstanding and now he has settled the matter with accused outside the court. PW-1 admitted that he does not want to proceed further with this case against the accused and therefore, he does not have any objection if the accused gets acquittal from this case.
- 10.** 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's u/s-447/294/323/506 of IPC and sets at liberty. Surety is extended for six months in view of section 437A of Cr PC.
- 11.** Accordingly, the case is disposed of. Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 07th 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:- Sri Ashok Biswasarma, Informant

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

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

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur