

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS
SONITPUR**

PRESENT: MANASHI NEOG, JMFC, SONITPUR

(Date of Judgment: 22.11.2022)

PR NO. 1937/2019

Under Section 448/323/506/34, IPC

(FIR No.286/19, registered u/s 448/325/379/506/34, IPC at Chariduar P.S.)

Complainant:	State of Assam
Represented By:	A.K. SAHANI
Accused:	1. SAHARUDDIN (A1) S/O Lt. Akkash Ali 2. KITAP JAN BIBI (A2) W/O Saharuddin 3. AMBIA KHATOON (A3) W/O Hasen Ali All are residents of, Vill. Akabasti Gaon, P.S. Chariduar, District- Sonitpur.
Represented By:	K. KALITA

Date of Offence	16.10.2019
Date of FIR	22.10.2019
Date of Charge sheet	31.10.2019
Date of Framing of Charges	19.02.2021
Date of commencement of evidence	22.11.2022
Date on which judgment is reserved	NA
Date of Judgment	22.11.2022
Date of the Sentencing Order, if any	NA

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trail for purpose of Sec. 428 Cr.P.C.
A1	Saharuddin	NA	NA	S.448/323 /506/34, IPC	Acquitted	NA	NA
A2	Kitap Jan Bibi	NA	NA	S.448/323 /506/34, IPC	Acquitted	NA	NA
A3	Ambia Khatoon	NA	NA	S.448/323 /506/34, IPC	Acquitted	NA	NA

JUDGMENT

1. The informant, Kamala Khatoon lodged an ejahar on 22.10.2019 alleging inter alia that the accused persons Saharuddin, Kitap Jan Bibi and Ambia Khatoon on 16.10.2019 at around 6:30 am taking advantage of the fact that no one was at the house of the informant went to her house, beat her up and pulled her by her hair thereby causing injury to her head. The accused persons threatened to beat her again in future. The accused persons also snatched away the nose ring of the informant.
2. The ejahar was registered as Chariduar P.S. Case No. 286/19 under section 448/325/379/506/34, IPC. After investigation of the same charge sheet was submitted against the accused Saharuddin, Kitap Jan Bibi and Ambia Khatoon under sections 448/323/506/34, IPC and they were forwarded to face trial before the court.
3. Cognizance was taken and summons was issued. On appearance of the accused persons before the court, copies of relevant documents were furnished to them under section 207 of Cr.P.C. The particulars of offences under section 448/323/506/34 were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. In support of the case, prosecution examined 1(one) witness. After closure of prosecution evidence, the statements of the accused persons under section 313 of Cr.P.C. were dispensed with. Defence declined to adduce evidence.

POINTS FOR DETERMINATION

- (i) Whether the accused persons on 16.10.2019 at 6:30 am at Akabasti Gaon in furtherance of their common intention committed house trespass by entering into the house of the informant in the possession of the informant with an intent to beat her and that they thereby committed an offence punishable under section 448/34, IPC?
- (ii) Whether the accused persons on the same date, time and place in furtherance of their common intention voluntarily caused hurt to the informant and that they thereby committed an offence punishable under section 323/34, IPC?
- (iii) Whether the accused persons on the same date, time and place in furtherance of their common intention criminally intimidated the informant with injury to her person and that they thereby committed an offence punishable under section 506/34, IPC?

DISCUSSION, DECISION AND REASONS THEREOF:-

- 5. Heard the argument put forwarded by the learned counsels for both the sides as well as gone through the evidence available on record.
- 6. In this case prosecution examined 1 (one) witness.
- 7. In the course of the evidence adduced by the prosecution, it emerged that the informant, Kamala Khatoon who was examined as PW-1 did not support the prosecution story. PW-1 deposed that on

the date of the incident she had a verbal altercation with the accused persons regarding some money. She deposed that during the altercation there was pushing and shoving between her and the accused persons and she lodged the ejahar against the accused persons out of anger. PW-1 further deposed that she has reconciled with the accused persons and does not want to prosecute them further. PW-1 proved the ejahar as Ext P-1/PW-1 and her signature as Ext P-1(i)/PW-1. Thus, from the evidence of the prosecution witness, it appears that no incriminating materials are available against the accused persons. No offence has therefore been made out against the accused persons under any section of law.

8. Since the informant/victim has not incriminated the accused persons, the case of the prosecution has fallen flat on its face. Hence, the points for determination are decided in the negative.
9. Considering the above, I come to the safe conclusion that, the prosecution has failed to prove the charges under section 448/323/506/34, IPC against the accused persons. Accordingly, the accused persons are found not guilty of the offences charged with and are acquitted.

ORDER

10. The accused Saharuddin, Kitap Jan Bibi and Ambia Khatoon are acquitted of the offence charged with and are set at liberty forthwith. The bail bonds furnished by the surety are extended for a period of six months.

11. Given under my hand & seal of this Court and delivered in the open Court on this 22nd day of November, 2022.

Typed by me:

Manashi Neog
JMFC, Sonitpur

APPENDIX

LIST OF WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Kamala Khatoon	Eye witness/Victim

B. Defence Witness, if any: NONE

C. Court Witness, if any: NONE

LIST OF EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW-1	Ejhar

B. Defence Exhibits: NONE

C. Court Exhibits: NONE

D. Material Exhibits: NONE

Manashi Neog
JMFC, Sonitpur