

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

**TEZPUR, ASSAM**

**P.R CASE NO:396 OF 2019**

**G.R CASE NO:2517/18**

**U/S 294/323/506/34 of the Indian Penal Code**

State of Assam

.....PROSECUTOR

**-Vs.-**

1. Musstt. Kairun Begum

W/o Md. Hamid Ali

2. Md. Abdul Ali

S/o Lt. Akhtar Ali

Both of village- Rikamari

P.S-Missamari, Dist- Sonitpur

.....ACCUSED

**PRESENT: VISHEK BHUYAN, LL.M, AJS**

**JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR**

FOR PROSECUTION: LD. APP. Mr Tapan Das

FOR THE ACCUSED: N.Uddin, R.Ali, M.Rahman, F.Islam, L. Gogoi

EVIDENCE RECORDED: 15.12.2021

JUDGEMENT DELIVERED ON: 04.01.2022

## **JUDGMENT**

1. The accused person Musstt. Kairun Begum and Md. Abdul Ali stood trial for offences punishable under Sections 323/506/294/34 of Indian Penal Code (hereinafter IPC).

### **Information and Investigation**

2. The genesis of this case has its roots with the lodging of Ejahar by informant Smti. Firoza Khatun is that, on 05.06.2018 at about 7:30 P.M. the accused persons chased me and used obscene language to verbally abuse me. The accused persons also slapped, punched and kicked me as a result of which I sustained injury. They also beat with a tree branch due to which I received injury on my forehead. The accused persons continued to verbally and physically since then and also threatened me with my life. Hence, this case.
3. The Ejahar was registered as Missamari P.S Case no 88/18 U/s 294/323/506/34 IPC. The police after investigation submitted charge sheet against the accused persons under section 323/506/294 of IPC.

### **Trial**

4. Cognizance was taken of the Charge sheeted offences and processes were issued upon which the accused persons appeared and copies of the relevant documents were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as Cr PC). The particulars of the offences were explained to the accused persons, to which he pleaded not guilty and claimed to be tried.
5. In this case, the prosecution has examined the informant-cum-victim as PW-1. Considering testimony of the informant, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused persons u/s 313 Cr PC dispensed with as the prosecution did not adduce any implicating evidence against them.
6. After hearing the learned Counsel of both sides and after perusal of the case record, I do hereby frame the following points of determination.

### **POINTS FOR DETERMINATION**

***I) Whether the accused persons namely Musstt. Kariun Begum and Md. Abdul Ali on 05.06.2018 at about 7:30 PM voluntarily caused hurt to the informant cum victim and, thereby, committed an offence punishable under Section 323 IPC?***

***ii) Whether the accused persons on the same day and time committed criminal intimidation by threatening the informant cum victim with injury to his person with intent to cause alarm to the informant and, thereby, committed an offence punishable under Section 506 IPC?***

***iii) Whether the accused persons on the same day and time committed obscene act by use of foul words to the annoyance of public and thereby committed an offence punishable under section 294 of the Indian Penal Code?***

### **PROSECUTION EVIDENCE**

#### **Evidence of the informant cum victim**

7. **P.W 1 Firoza Khatun** is the informant-cum-victim in this case. She states that she knows the accused persons standing in the dock, they are her in-laws and that she lodged this case due to a misunderstanding and currently the matter has been settled amicably and that she has no complaint against the accused persons. **In her cross examination**, she states that she has no objection if the accused persons are acquitted.

### **DISCUSSIONS, DECISIONS AND REASONS THEREOF**

8. Upon a perusal of the evidence, it is clear that the informant-cum-victim of this case does not wish to proceed with the case, as the case was lodged due to a personal difference but since then the matter has been resolved among the two parties amicably and has no issue if the accused persons are acquitted of the charges brought against him.
9. As such the prosecution has failed prove that the accused persons have committed the offences u/s 323/506/294/34 of IPC beyond reasonable doubt.

**ORDER**

In light of the above, it is held that the prosecution has failed to prove the case U/s 323/294/506/34 of IPC against the accused Musstt. Kairun Begum and Md. Abdul Ali beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, his bail bond shall remain in force for a period of next 6(six) months as provided by section 437A Cr PC.

Given in my hand and under the seal of this court on this the 04<sup>th</sup> day of January, 2022.

Typed by Me:

(Mr Vishek Bhuyan)  
Judicial Magistrate First Class  
Sonitpur, Tezpur

## **APPENDIX**

### **Prosecution Witness:**

PW-1: Smti. Firoza Khatun

### **Defence Witness:**

NIL

### **Prosecution Exhibits:**

Ext-1: Ejahar

Ext-1(1): Signature of informant

### **Defence Exhibits:**

NIL

(Mr Vishek Bhuyan)  
Judicial Magistrate First Class  
Sonitpur, Tezpur