

**IN THE COURT OF SUB DIVISIONAL JUDICIAL**

**MAGISTRATE (M), GOHPUR.**

**P.R.C - 110/2020**

**U/S 323/324 I.P.C**

State

Vs

Sri. Jiten Haripal,

S/o. Sri. Jadu Haripal.

Vill.: Naya Ghogra, Jay Puria Line,

P.S.Gohpur, Dist. Biswanath,

Assam.

..... Accused.

Present: A. A. Choudhury, S.D.J.M (M), Gohpur.

For prosecution: Ms. Barnali Chetia, Id. A.P.P.

For defence: Mr. Debajit Dutta, Ld. Advocate.

Date of evidence: 06.01.2022.

Argument heard on: 06.01.2022.

Judgment delivered on: 10.01.2022.

### **JUDGMENT**

(1) The case of the prosecution in a nutshell is that the informant namely Sri Dipak Kumar lodged an ejahar on 11.05.2020 against accused namely Sri. Jiten Haripal inter-alia alleging that on 10.05.20 at about 07:00 pm, while informant's sister, namely Bijulee Kumari, who is the wife of accused person, was cooking rice at house of accused person at Jaypuria, Naya Gohgra, accused person poured hot water at his wife's body resulting in burnt of her chest. Accused person has also struck the head of informant's sister causing grievous injury. Hence, the ejahar.

(2) The ejahar was registered as a case vide Gohpur P.S. Case No. 175/20, U/S 326 (A)/307 I.P.C. on 11.05.2020 and on completion of the investigation, Charge-Sheet was submitted

under section 326 (A)/307 IPC against the accused person namely Sri. Jiten Haripal.

- (3) Considering the Charge-Sheet, the instant case was committed to the Hon'ble Court of Additional Sessions Judge, Biswanath Chariali vide Order dated 05.08.20 passed by this Court. Subsequently, vide Order dated 04.12.21 passed in Sessions Case No. 35 of 2020 by the Hon'ble Court of Additional Sessions Judge, Biswanath Chariali, the instant accused was charged U/S 323/324 IPC and accordingly the instant case was transferred to this Court for conducting trial.
- (4) Thereafter, during the trial, the prosecution side has examined 02 Prosecution witnesses, being the informant and the victim, whereas, the case of accused is that of denial. Considering the nature of evidence of the witnesses and also considering other attending circumstances; as no incriminating materials are found against the accused person; further evidence was closed and statement-in-defence U/S 313 Cr.P.C of accused person was also dispensed with for the said reason.

(5) **Point for determination:**

(i) Whether the accused person has voluntarily caused hurt to the informant's sister by means of any instrument of shooting, stabbing, cutting, or any instrument which, used as a weapon of offence is likely to cause death?

(ii) Whether the accused person voluntarily caused hurt to the informant's sister?

**Decision thereon and Reasons for the decision:**

(6). In evidence, the informant as PW 1 namely Sri Dipak Kumar deposed that he is the informant of this case and accused person is his brother in law. About 01 year ago, they had a quarrel due to some misunderstanding in which PW 1 sustained minor injuries. Accordingly, PW 1 lodged the ejahar on the next day. PW 1 also deposed that now due to intervention of village elders and to restore good will between them, they both have mutually settled the dispute and amicably resolved and presently are in good and peaceful terms. PW 1 does not have any grievance against the accused

as the dispute has been amicably settled between them. PW 1 further stated that he does not want to proceed with the case.

(7) In his cross examination, PW 1 stated that he does not know the contents of the ejahar. Accused person has not hurt his sister nor used any sharp weapon for assaulting her. PW 1 also stated that he has no objection if the accused person is acquitted in this case as case has been compromised amicably between them. PW 1 does not want to proceed with the case as case has been mutually settled between them. PW 1 lodged the ejahar due to minor dispute only. Presently, they are in good terms.

(8). In evidence, the victim as PW 2 namely Smti Bijulee Hari Pal deposed that informant is her brother and accused person is her husband. PW 2's marriage with accused person was solemnised about 20 years ago and they have 02 children out of the wedlock. Due to some misunderstanding between them, PW 2 and her husband had a minor dispute. On the same day, PW 2 slipped and fell on the ground in which PW 2 sustained minor injuries. Out of misunderstanding, brother of PW 2 lodged the ejahar on the next day. PW 2 also deposed

that now due to intervention of village elders and to restore good will between them, they both have mutually settled the dispute and amicably resolved and presently are in good and peaceful terms. PW 2 does not have any grievance against the accused as the dispute has been amicably settled between them. PW 2 further stated that she does not want to proceed with the case and that they are cohabiting together at the same house.

(9) In his cross examination, PW 2 stated that she does not know the contents of the ejahar. Accused person has not hurt her nor used any sharp weapon for assaulting her. PW 2 also stated that she has no objection if the accused person is acquitted in this case as case has been compromised amicably between them. PW 2 does not want to proceed with the case as case has been mutually settled between them. PW 1 lodged the ejahar due to minor dispute only. Presently, they are in good terms and cohabiting together.

(10). Upon considering the evidence and materials on record, it is seen that a minor-dispute/misunderstanding occurred between the parties, who are married spouses. The informant

as well as the victim stated in their cross examination that the accused person has not hurt the victim nor used any sharp weapon for assaulting her. In their respective cross examination, the witnesses stated that they do not know the contents of the ejahar and that the ejahar was lodged due to some minor dispute only. The victim as PW 2 in her evidence deposed that she slipped and fell on the ground in which PW 2 sustained minor injuries and out of misunderstanding, brother of PW 2 lodged the ejahar on the next day. The witnesses also stated that they do not want to proceed with the case as case has been mutually settled between the parties and presently PW 2 (victim) is cohabiting with her husband (accused) under the same roof. The witnesses further stated in their cross examination that they have no objection if the accused person is acquitted in this case as case has been compromised amicably between them. Also seen the joint compromise petition filed by both the parties vide petition no. 55/22 dated 06.01.22. Section 324 IPC is non-compoundable in nature and as such the instant case cannot be compounded on that count.

(11) Therefore, considering the nature, gravity and circumstance of the allegation and the evidence and other materials-on-record and upon hearing both sides, as no incriminating materials are found against the accused person; the above issues are decided in the negative and in favour of the accused person.

(12) The following Order is passed in this case.

**ORDER**

(13) The accused person namely Sri Jiten Hari Pal stands acquitted in this case as prosecution side failed to prove the guilt of the accused person.

(14) The accused person be set at liberty forthwith, if in custody and not wanted in any other case.

(15) Judgment is delivered in Open Court in presence of the accused person.

(16) Bail Bond to be discharged in accordance with law, after a period of 06 (six) months.

(17) Given under my hand and seal of this Court on this the 10<sup>th</sup> day of January, 2022.

Accordingly case disposed off.

A. A. Choudhury,  
S.D.J.M (M), Gohpur.

## **APPENDIX**

### **Prosecution Witness:**

PW 1 –Sri Dipak Kumar.

PW 2 –Smti Bijulee Hari Pal.

### **Prosecution Exhibits:NIL**

Exhibit 1-Ejahaar.

### **Defence Witness: NIL**

### **Defence Exhibits: NIL**

### **Court Witness: NIL**

A. A. Choudhury,  
S.D.J.M (M), Gohpur.

**10.01.22:**

Accused person is present in Court today.

Judgment and Order is pronounced in open Court today.

The following Order is passed in this case.

Keep the original copy of Judgment and Order alongwith the C/R.

**ORDER**

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*Sonitpur Judiciary.*