

**IN THE COURT OF SUB DIVISIONAL JUDICIAL  
MAGISTRATE (M), GOHPUR.**

**P.R.C - 223/2020**

**U/S 294/326 I.P.C**

State

Vs

Bhaikon Borah,

S/o. Sri Korheswar Borah.

Vill.: Borigaon, 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. Arnab Kumar Das, Ld. Advocate.

Date of evidence: 27.12.21.  
Argument heard on: 10.01.22.  
Judgment delivered on: 19.01.22.

### **JUDGMENT**

(1) The case of the prosecution in a nutshell is that the informant namely Smti. Mainu Saikia has lodged an ejahar on 03.02.20 against accused person namely Sri. Bhaikon Borah, inter-alia alleging that on 02.02.20 at about 12:00 noon, accused person has demanded dowry from the elder sister of informant namely Smti. Aparajita Saikia Bora, who is the wife of accused and has also used obscene language on her and also beaten her. The accused person has further hit the head of victim woman with a dao causing grievous injuries. Hence, the ejahar/FIR.

(2) The ejahar was registered as a case vide Gohpur P.S. Case No. 51/20, U/S 294/326 I.P.C. on 03.02.20 and on completion

of the investigation, Charge-Sheet was submitted under section 294/326 IPC against the accused person namely Sri Bhaikon Borah.

- (3) Accordingly, cognizance was taken and copies were served to the accused person and when particulars of offence under section 294/326 IPC was read over and explained to the accused person, the accused pleaded not guilty and claimed to be tried.
- (4) During the trial, the prosecution side has examined 02 Prosecution witnesses, being the informant and victim, whereas, the case of accused is that of denial. Upon considering the nature of evidence of the informant 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 reasons.

(5) **Point for determination:**

(i). Whether the accused person has annoyed the informant's sister by doing any obscene act in public place or by uttering obscene words in public place?

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

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

(6). In evidence, the informant as PW 1 namely Smti Mainu Saikia deposed that she is the informant of this case and accused person is her brother in law (sister's husband). PW 1 has lodged the ejarah at the instance of her sister namely Aparajita Saikia. Both the spouses had a quarrel and accidentally PW 1's sister Aprajita fell down on the ground and sustained injuries. Presently, they all have settled the dispute

amicably between them as all are family members. PW 1 does not have any grievance against the accused person and does not want to proceed with the case, as they have resolved the misunderstanding between them.

(7) In cross examination, PW 1 stated that she has lodged the ejahar due to some misunderstanding and she does not know the contents of the ejahar. Accused person did not cause any hurt to PW 1's sister nor used any obscene words. PW 1's sister accidentally fell down and sustained injuries. Presently, both PW 1's sister and husband (accused) are cohabiting together. PW 1 also stated that she has no objection if the accused person is acquitted in this case as case has been compromised amicably. PW 1 does not want to proceed with the case.

(8). In evidence, the victim as PW 2 namely Smti Aparajita Borah deposed that informant is her sister-in-law and accused person is her husband. PW 2 also deposed the as her husband had a quarrel with her and accidentally PW 2 fell down on the ground and sustained injuries, informant mis-understood the

injury and lodged the ejahar against PW 2's husband. Presently, they all have settled the dispute amicably between them as they are spouses and have two children. PW 2 does not have any grievance against the accused person and does not want to proceed with the case as they have resolved the mis-understanding between them.

(9) In cross examination, PW 2 stated that she does not know the contents of the ejahar. Accused person did not cause any hurt to her. Accused person did not use any obscene words. PW 2 accidentally fell down and sustained injuries. Presently, PW 2 and her husband (accused) are cohabiting together. PW 2 also stated that she has no objection if the accused person is acquitted in this case as case has been compromised amicably. PW 2 does not want to proceed with the case.

(10). Upon considering the evidence and materials on record, it is seen that a misunderstanding occurred between the parties, who are spouses. Both the informant and victim in their respective cross-examination stated that they do not know the contents of the ejahar. They have further stated in their

respective cross examination that the accused person has neither caused any hurt to the victim nor uttered any obscene words. They have further stated that the victim person accidentally fell down and sustained injuries. Both the witnesses stated that they do not want to proceed with the case as case has been mutually settled and amicably compromised between them. The witnesses have also deposed in their evidence that they do not have any grievance against the accused person and also do not want to proceed with the case as the dispute has been amicably settled between them. Both the witnesses have also stated in their respective cross examination that the victim woman and the accused person, who is husband of the victim, are presently cohabiting together. Also seen the joint compromise petition filed by both the parties vide petition no. 174/2022 dated today. Both the sections i.e, Section 294/326 IPC are non-compoundable in nature and as such cannot be compounded on this 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; both the aforesaid 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 Bhaikon Borah 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 19<sup>th</sup> day of January, 2022.

Accordingly case disposed off.

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

Sonitpur Judiciary

## **APPENDIX**

### **Prosecution Witness:**

PW 1 – Smti Mainu Saikia.

PW 2 – Smti Aparajita Bora.

### **Prosecution Exhibits: NIL**

Exhibit 1-Ejahaar.

### **Defence Witness: NIL**

### **Defence Exhibits: NIL**

### **Court Witness: NIL**

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

**19.01.22:**

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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