

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

**PRC No-1292/2021**

**U/s 294/352/34 of IPC**

**State**

**Vs.**

1. Khairul Islam  
@Munu@Bhoku
2. Sabu Ali@Sabut
3. Noor Islam

R/o – Graham Bazar

Chikuapatty, Dibrugarh

Present : Sri R. Boro, AJS  
Arguments for Prosecution : Sri L. Deori, Addl. APP  
Arguments for Defence : Sri I. Haque,  
Ld. Advocate  
Evidence recorded on : 05.01.2022  
Arguments Heard : 05.01.2022  
Judgment delivered on : 05.01.2022

**JUDGMENT**

**Prosecution Story:**

1. The prosecution in brief narrated that the informant Md. Idul Ali son of Lt. Ramjan Ali, resident of Graham Bazar, Chikuapatty, Dibrugarh on 17.08.2018 submitted a written complaint alleging that on 16.08.2018 at around 10:30 AM the accused persons namely, Noor Islam son of Nurul Ali ,Bhoku and Sabut forcefully entered his house

carrying sticks and machetes and attacked him and his wife.

**Investigation :**

2. On receipt of FIR, the police registered a case being Dibrugarh P.S. Case No.- 1262/2018, U/s 447/323/34 of IPC. The Investigating Officer ASI Bijoy Kumar Pradhan of Dibrugarh P.S. carried out the investigation in the matter. During the course of investigation, the I.O. examined the witnesses u/s 161 Cr.P.C., prepared one sketch map of the place, where the offence was allegedly committed and then after completion of the investigation finally submitted the charge sheet finding sufficient materials against the accused persons namely, Khairul Islam @ Munu@ Bhoku, Sabu Ali@ Sabut and Noor Islam for the offences u/s. 294/352/34 of IPC.

**Appearance of the accused persons:**

3. On receipt of summons, the accused persons were called upon to enter trial and upon appearance of the accused persons, copies of relevant documents U/S 173 were furnished to the accused persons in compliance with Section 207 of Cr.P.C.

**Charge against the accused persons:**

4. Considering the relevant documents attached with the case records and hearing both the parties, prima-facie materials to presume that the accused persons have committed an offence U/s 294/352/34 of IPC and accordingly particular offences of the said Sections was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

**Witness examined:**

5. In order to bring home the offence, the prosecution side examined only one witness - PW1- Idul Ali and exhibited one document Ext.1- Ejahar.

**Examination of accused u/s 313 Cr.P.C.**

6. The examination of the accused under section 313 of Cr.P.C. has been dispensed with finding no any incriminating materials against the accused persons.
7. The defence side did not adduce any evidence.
8. After hearing arguments put forwarded by both the learned counsels appearing on behalf of their respective parties, and after going through all the evidences on records and documents attached with the case records, I have framed the following points for determination.

**Points for determination:**

1. Whether the accused persons in-furtherance of their common intention on 16.08.2018 at around 10:30 AM committed an obscene act at the house of the informant and thereby committed an offence punishable U/s.294/34)?
2. Whether the accused persons in-furtherance of their common intention on the said date, time and place assaulted or used criminal

force on the informant and his wife and thereby committed an offence punishable U/s. 352/34)?

**Discussions, Decisions and Reasons thereof:**

9. Before appreciating the entire evidence on record, I have gone through the evidence adduced by the prosecution side. PW1-Idul Ali has testified in his evidence that he is the informant of this case and he lodged the FIR against the accused persons due to some misunderstanding between him and the accused persons. The incident occurred three years ago. They are his relatives. He was furious against them and in a fit of rage lodged an FIR against them. Ext. 1 is the ejahar. Ext. 1(1) is his signature on the ejahar.
10. During the time of cross-examination, he testified that after lodging the FIR he settled their domestic disputes with the accused persons. He now shares cordial relation with them and he does not want proceed further with the case. He has no objection if the accused persons are acquitted.
11. Now, upon perusal of the evidence adduced by PW1 – Idul Ali it transpires, that he have adduced any cogent evidence against accused persons for the offence alleged to be committed by the accused person under sections 294/352/34 of IPC. Besides, the Ext-1 is not corroborated to the evidence adduced by him. Now, without having any corroboration, the accused cannot be held guilty, it must be corroborated or supported by other eye witnesses or any other documentary evidence. But all these are found absent in the instant case.

PW1- Idul Ali in his deposition stated that he does not want to continue this case further since they have resolved the matter outside the Court amicably and he shares cordial relation with the accused persons. They are also his relatives. The ejahar was lodged against the accused persons out of anger and misunderstanding and now he does not want to continue this case further.

12. Situated thus, it is evident that the prosecution has failed to establish the allegation levelled against the accused for the offence committed U/s- 294/352/34 of IPC and therefore, the accused persons are acquitted from the allegation levelled against him for the offence u/s- 294/352/34 of IPC and they set at liberty forthwith.

13. Bail bond remain extended for another 6 (six) months as per section 437(A) of the Cr.P.C.

14. Accordingly, the case is disposed of on contest.

Given under my hand and seal of this court in presence of both sides on this 05<sup>th</sup> January, 2022.

(Rinku Boro)  
Judicial Magistrate First Class

## **APPENDIX**

### A. Prosecution Witness

PW1 – Sri Idul Ali

### B. Prosecution Exhibits

Exhibit 1 - FIR

Exhibit 1 (1) - Signature of the Informant Sri Idul Ali

### C. Defence Witness

Nil

### D. Defence Exhibits

Nil

(Rinku Boro)  
Judicial Magistrate First Class