

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS :
DIBRUGARH

PRESENT : Smti. Zohra Yasmin, A.J.S.,

Judicial Magistrate First Class,

Dibrugarh

Advocate for the Prosecution : Sri. M. Dutta, A.P.P.

Advocate for the accused : Smti. N. Saha

G.R. Case No. 2836 of 2020 (P.R.C. No. 887/2020)

State of Assam

-VS-

Sri. Nabajyoti Gogoi @ Bogadhar..... Accused person

Under Sections 448/352/294 IPC

Offence explained on10.03.2021.

Evidence recorded on 29.12.2021.

Arguments heard on 29.12.2021.

Judgment delivered on 10.01.2022.

J U D G M E N T

- 1) The prosecution story in brief is that on 12.08.2020 an Ejahar was lodged by the informant Sri. Bhaskar Jyoti Konwar alleging inter alia that on

11.08.2020, at 7 pm, the accused person Sri Nabajyoti Gogoi entered in the house of Prasanta Saikia where the informant was present and assaulted him and threatened him of dire consequences. Hence, the Ejahar was lodged by the informant.

- 2) On receipt of the Ejahar, Tengakhat P.S. Case No. 88/2020 was registered and after the investigation police submitted the charge-sheet vide no. 47/2020 against the accused person Sri. Nabajyoti Gogoi @ Bogadhar under Section 448/294/506 of Indian Penal Code before the Learned Chief Judicial Magistrate, Dibrugarh.
- 3) Upon receiving summons, the accused persons appeared before the court and on finding prima facie materials against the accused person particulars of offences under Sections 448/352/294 IPC were explained to him to which he pleaded not guilty and claimed to be tried.
- 4) In support of the case, the prosecution has examined one witness.
- 5) After the prosecution evidence was over, the accused persons was examined under Section 313 Cr.P.C. wherein he has denied the prosecution case and also declined to adduce any defence evidence.
- 6) I have heard the arguments of both sides.
- 7) Considering the materials on record and after hearing the arguments of both sides, the following points are taken as points for determination-

POINTS FOR DETERMINATION-

- (i) Whether the accused person on 11.08.2020 in the evening entered the house of Sri. Prasanta Saikia unlawfully with intent to commit an offence and thereby committed an offence punishable under Section 448 IPC?
- (ii) Whether the accused person Sri. Nabajyoti Gogoi on 11.08.2020, had abused the informant in indecent words in public place and thereby committed an offence punishable under Section 294 IPC?
- (iii) Whether the accused persons had on the same date and place, had assaulted Sri. Bhaskarjyoti Konwar or used criminal force upon him, otherwise than on grave and sudden provocation by the him and thereby committed an offence punishable under Section 352 IPC?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 8) Let me discuss the evidence of the prosecution witness for arriving at a definite conclusion as regards the points for determination. PW1 is Sri. Bhaskarjyoti Konwar is the informant of this case. He has stated that he knows the accused person. The alleged incident took place around one year ago. At the time of the alleged incident due to some misunderstanding an altercation took place between him and the accused person and he lodged the ejahar out of anger. Exhibit 1 is the Ejahar and Exhibit 1(1) is his signature.

- 9) In his cross-examination, PW1 has deposed that the accused person do business together and relating to a business matter some misunderstanding took place between them. He has no grievances against the accused person.
- 10) From the evidence of the prosecution witnesses who is the informant as well the victim of the case, it is seen that he has stated nothing incriminating against the accused person. He has deposed that on the date of occurrence an altercation took place between the accused person and the informant.
- 1) In a criminal case, the prosecution must prove the guilt of the accused beyond all reasonable doubt. In this instant case, the prosecution has been unable to prove the guilt of the accused persons beyond reasonable doubt. There is nothing incriminating in this case to convict the accused person under the section brought against him. As a result of which accused person Sri. Nabajyoti Gogoi @ Bogadhar is acquitted from the offences under Sections 448/352/294 IPC in this case and he is set at liberty forthwith.

ORDER

- 11) The accused persons Sri. Nabajyoti Gogoi @ Bogadhar is acquitted from the offences under Sections 448/352/294 IPC in this case and he is set at liberty forthwith.
- 12) The bail bond of the accused person is extended for six months from today as per the provisions of Section 437A CrPC.
- 13) The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 10th day of January, 2022 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) PW1 Sri. Bhaskar Jyoti Konwar (informant)

PROSECUTION EXHIBITS:

- 1) Exhibit 1- Ejahar
- 2) Exhibit 1(1)- Signature of the informant

DEFENCE WITNESSES:

None

DEFENCE EXHIBITS:

NIL

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH