

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 : Sri. G.R. Rai

G.R. Case No. 3088 of 2020 (P.R.C. No. 1382/2020)

State of Assam

-VS-

Sri. Damabaru TamangAccused person

Under Sections 323/294 I.P.C.

Offence explained on 23.11.2021.

Evidence recorded on 07.01.2022.

Arguments heard on 07.01.2022.

Judgment delivered on12.01.2022

J U D G M E N T

- 1) The prosecution story in brief is that on 29.08.2020 an Ejahar was lodged by the informant Sri. Kasfar Mundu alleging inter alia that on 27.08.2020, at around 7 pm, the informant was going to Budhboria Chariali to buying fish but he did not buy it from the accused person Sri Dambaru Tamang.

Then, accused person suddenly assaulted with a 'dao' from the back side on his back with the blunt side. Hence, the Ejahar was lodged by the informant.

- 2) On receipt of the Ejahar, Tingkhong P.S. Case No.214/2020 was registered and after the investigation police submitted the charge-sheet against the accused person Sri. Dambaru Tamang under Sections 325 of Indian Penal Code before the Learned Chief Judicial Magistrate, Dibrugarh.
- 3) On 23.11.2021 the accused person appeared before the court and Upon receiving summons, and on finding prima facie materials against the accused person particulars of offences under Sections 323/294 were explained to the accused person 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 were 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 27.08.2020, at about 7pm at Budhboria Chariali voluntarily caused hurt to the informant Sri. Kasfar Mundu and thereby committed an offence punishable under Section 323 IPC?
- (ii) Whether the accused persons, on the same date, time and place had uttered obscene words in public place and thereby committed an offence punishable under Section 294 IPC?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 8) PW 1, Sri. Kasfar Mundu is the informant in the case. He has deposed in his evidence-in-chief that he knows the accused person Damabru Tamang. One year ago on the date of the incident an altercation took place between them due to some misunderstanding. After that incident the informant lodged the ejahar. Exhibit 1 is the ejahar.
- 9) PW1 in his cross examination stated that the matter has been amicably settled between them.
- 10) From the evidence of the prime witness of the case who is the informant as well as the victim of the case, it is seen that the said witness has not stated anything incriminating against the accused person. The witness have deposed that on the date of occurrence an altercation took place between the accused person and the informant.

11) 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 persons under the section brought against them. As a result of which accused person Sri. Dambaru Tamang is acquitted from the offences under Sections 323/294 IPC in this case and he is set at liberty forthwith.

ORDER

12) The accused person Sri. Dambaru Tamang acquitted from the offences under Sections 323/294 IPC in this case and he is set at liberty forthwith.

13) The bail bond of the accused person is extended for six months from today as per the provisions of Section 437A CrPC.

14) The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 12th day of January, 2022 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) PW1 Sri. Kasfar Mundu (Informant)

PROSECUTION EXHIBITS:

- 1) Exhibit 1- Ejahar

DEFENCE WITNESSES:

None

DEFENCE EXHIBITS:

NIL

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH