

G.R. CASE NO. 3577/2019

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

G.R. CASE NO. 3577/2019

(U/S- 294/324 IPC)

Present: Smti. Sanskrita Khanikar, A.J.S.
Judicial Magistrate First Class,
Dibrugarh

State

- VS -

Md. Mukesh Ali

S/O - Sri Moinul Ali

R/O - Chandmarighat

P.S. - Dibrugarh

Dist - Dibrugarh, Assam

..... Accused

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Advocate for the Prosecution : Learned Smti. Panchi Bora

Advocate for the Defence : Learned Sri S.N. Yadav

Evidence recorded on : 04-12-2021

Argument heard on : 04-12-2021

Judgment delivered on : 04-12-2021

J U D G M E N T

1. The prosecution case as stated in the F.I.R. dated 04-09-2019 is that on 03-09-2019, the informant, namely, Md. Samsul Haque's son-in-law being the accused, namely, Md. Mukesh Ali was beating his 7 year old son when the informant intervened and asked him the reason for beating his son. The accused, then, attacked the informant with a blade right outside his house in the adjoining street and caused injuries to the informant's back, chest and left hand. The accused also verbally abused him in foul language. As such, the informant was compelled to lodge the said F.I.R. against the accused person.
2. A case was registered at Dibrugarh P.S. subsequent to the lodging of this F.I.R. which was filed against Md. Mukesh Ali. Upon completion of investigation,

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the police submitted charge-sheet against the accused Md. Mukesh Ali for commission of the offences u/sec 294/324 of the Indian Penal Code (hereinafter referred to as I.P.C.).

3. The accused person stood for trial. Copies of the relevant documents were furnished to the accused person as required by Section 207 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.). Upon finding prima facie case for commission of offences u/sec 294/324 of the IPC, formal charges thereinunder were framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution side has examined only 1 (one) witness being the informant, namely, Md. Samsul Haque as PW-1.

The prosecution also took aid of 1 (one) document being the ejahar which has been exhibited as Exhibit 1.

5. After recording the prosecution evidence, the statement of the accused person was recorded u/sec 313 of Cr.P.C. The defence plea is that of total denial and the accused person claimed innocence. The defence adduced no evidence.
6. I have heard the arguments from both sides and meticulously perused the entire evidence on record.

7. THE POINTS FOR DETERMINATION:

- (i) Whether the accused person on 03-09-2019 at about 10 p.m. in the night uttered obscene words and verbally abused the informant and thereby committed an offence punishable u/sec 294 of the IPC?
- (ii) Whether the accused person on the same date and place voluntarily caused hurt to the informant by means of a blade which is an instrument of cutting and thereby committed an offence punishable u/sec 506 of the IPC?

DISCUSSION, DECISION AND REASONS THEREON:

- 8. PW-1, being the informant, deposed in his evidence that the accused person Md. Mukesh Ali is his son-in-law. He stated that the incident was of the year 2019 which occurred due a misunderstanding between him and the accused. However, the informant/PW-1 stated that at present the matter has already been sorted out between them and as such, they are maintaining good relations with each other. He also stated that he does not want to proceed any further in the instant case as the accused is his own son-in-law and that he had lodged the ejahar simply out of anger. He also stated that the ejahar contains his thumb impression. He

further stated that he does not want to proceed any further in the instant case.

During his cross-examination, he stated that he has no objection if the accused is acquitted from the charges levelled against him in the instant case.

9. I have heard the arguments of the learned Asst. Public Prosecutor and the learned defence counsel. Perusal of the case record reveals that upon submission of the learned Asst. Public Prosecutor and her prayer for closing the prosecution evidence, the prosecution evidence was closed as the informant of the instant case has not supported the facts of the prosecution case and there is no point in dragging the case by summoning the other prosecution witnesses.
10. Upon perusal of the materials on record, it transpires that the informant being the PW-1 has categorically stated in his testimony that he does not want to proceed any further in the instant case as the matter in dispute has already been amicably sorted out between him and the accused. He had also deposed that the ejahar in the instant case was lodged by him against the accused person out of anger and misunderstanding. In the absence of any cogent evidence and as the informant himself has not supported the facts of the prosecution

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case, I am not inclined to hold the accused person guilty u/sec 294/324 IPC.

11. Situated thus, I am constrained to hold that the prosecution has failed to establish the guilt of the accused Md. Mukesh Ali u/sec 294/324 IPC beyond all reasonable doubt. As such, the points of determination are answered in the negative in favour of the accused person.

ORDER

12. In view of the decision made above, the accused person, namely, Md. Mukesh Ali is acquitted of the offences u/sec 294/324 IPC and set at liberty forthwith.
13. Her bail bond shall remain in force for six months from today in compliance with section 437-A, Cr.P.C.
14. The case is disposed of on contest.
15. Given under my hand and the seal of this Court on this 4th day of December, 2021 at Dibrugarh.

Typed by: Self

Sanskrita Khanikar

Judicial Magistrate First Class
Dibrugarh

APPENDIX

A. Prosecution witnesses:-

- i) Md. Samsul Nath, informant of the case as PW-
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B. Defence witnesses:- Nil

C. Prosecution exhibits:-

- i) The Ejahar as Exhibit 1

D. Defence exhibits:- Nil

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh