

P.R.C.CASE NO: 458 of 2018  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: SHRI RAMANI TALUKDAR & ANR

1

DISTRICT: NALBARI  
IN THE COURT OF THE SUB DIVISIONAL JUDICIAL MAGISTRATE:::::NALBARI

**P.R.C.CASE NO: 458/18**  
**U/S 448/352/509/34 IPC**

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: (1)SRI RAMANI TALUKDAR  
(2)SRI MUKUNDA TALUKDAR

**PRESENT : SHALMA AZAZ,  
S.D.J.M., (S) NALBARI.**

ADVOCATE FOR THE PROSECUTION: Smti. M. Chakroverty.

ADVOCATE FOR THE ACCUSED: Sri. J. Medhi.

CHARGE FRAMED ON: 05.2.19

EVIDENCE RECORDED ON: 07.02.19

ARGUMENT HEARD ON: 07.02.19

JUDGMENT DELIVERED ON: 07.02.19

### **JUDGMENT**

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Belsor Police station, by the informant/ victim, Smti Suchilla Talukdar on 26.05.15, against the accused persons, Sri Ramani Talukdar and Sri Mukunda Talukdar, to the effect that, on 25.05.15 at 6:30 p.m, the accused persons all of a sudden chased the informant and entered into her homestead and verbally abused her by using obscene word and dragged her out from her house by catching her hair and gave slaps and fist blows to her, as a result of which she sustained serious injuries on her person. The accused persons armed with dao and lathi tried to kill her. The accused persons tried to insult the modesty of informant Suchilla Talukdar by uttering the words that she is having illicit relationship with other person. Accused Ramani Talukdar hurt her by catching on her chest. The informant somehow managed to save her life by fleeing away from the place of occurrence, and even now also the accused persons stands near her path by taking dao and axe in hand.
2. The police upon receipt of the ejahar registered it as Belsor Police Station case no.106/15 under sections 448/323/509/354/34 IPC and started investigation in the case. After completion of the investigation the police submitted charge sheet against the accused persons namely, Ramani Talukdar and Mukunda Talukdar under section 448/509/352/34 IPC.
3. The accused persons were called upon to enter trial and after causing their appearance the copies of the relevant documents were furnished to the accused. Upon hearing and on perusal of record the particulars of offence under section 448/352/509/34 IPC were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined the informant/victim. The prosecution prayed to close the evidence of prosecution side, as the principal witness, i.e the informant/victim did not support the case of the prosecution and the examination of the other witnesses is not required. I have perused the record and it appears that the informant/victim was the principal witness for the prosecution; hence when he has not supported the case of the prosecution then further examination of other witnesses would

merely be a futile exercise as it will not change the merit of the case; as such the evidence of the prosecution side is closed.

5. As there is no incriminating materials against the accused persons, the statement of the accused persons under section 313 of CrPC, is dispensed with.
6. I have heard both the parties. I have heard the learned counsel for the accused who submitted that there is no material against the accused persons; as such the accused persons need to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following points for determination-
  - (1) Whether the accused persons, on 25.05.15 at about 6:30 pm, in the evening, at village Jagara (Talukdar para) under Belsor P.S., in furtherance of their common intention, committed house trespass by entering into the homestead of the informant Suchilla Talukdar with intent to commit an offence and thereby committed the offence under section 448/34 of IPC?
  - (2) Whether the accused persons, on 25.05.15 at about 6:30 pm, in the evening, at village Jagara (Talukdar para) under Belsor P.S., in furtherance of their common intention, intending to insult the modesty of informant Suchila Talukdar , accused her of having illicit relationship with other person and thereby committed offence under section 509/34 of IPC?
  - (3) Whether the accused persons, on 25.05.15 at about 6:30 pm, in the evening, at village Jagara (Talukdar para) under Belsor P.S. in furtherance of their common intention assaulted the informant Suchilla Talukda,r and thereby committed the offence under section 352/34 of IPC?
8. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

**DISCUSSION, DECISION AND REASONS FOR THE DECISION:**

**POINT FOR DETERMINATION NOS.1, 2 &3:**

9. All the points for determination are taken together for discussion as they are intricately connected to each other.
10. The prosecution has examined only one witness in support of its case, i.e the alleged informant/ victim.
11. The PW1, Smti. Sushila Talukdar, who is the informant/victim of this case, has stated that the accused persons are her brother-in-law and they lived in the same compound. She further stated that the incident occurred around three years ago, in the evening, and on the day of incident she was in her house and regarding prior land dispute between the brothers, the accused persons had an altercation with her and as the dispute was going on for long she got irritated and out of misunderstanding she lodged the ejahar against the accused persons. Later on, after talking with each other their misunderstanding was resolved and land dispute is also partly resolved and they are presently residing together. Ext.1 is the ejahar and Ext.1(1) is her signature.

In cross examination, the PW1 admitted that she does not know what is written in the ejahar, she did not read it. The PW1 also admitted that the accused persons did not assault her nor used obscene language and gestures her. She further stated that they simply had an altercation, and presently she has no grievance against the accused persons.

12. On perusal of the case record, it is seen that the accused persons and the informant had an altercation regarding a land dispute. The PW1 specifically admitted that the accused persons did not assault her nor used obscene language and gestures her, they only had an altercation. The perusal of the evidence of the PW1 reveals that she had not at all supported the prosecution version and according to her, she had lodged the ejahar of anger and in misunderstanding. The PW1 has specifically admitted that the accused persons did not commit the alleged offence, rather they only had

an altercation; hence it is held that the prosecution has failed to establish the charges against the accused persons.

13. In view of the above discussion it is held that the prosecution has failed to prove the points for determination.
14. *DECISION:* The prosecution has failed to prove the charges against the accused persons under section 448/352/509/34 of IPC, and therefore, the point for determinations are answered in negative, in favour of the accused persons.

ORDER

15. In view of the discussions made above and the decision reached therein it is held that the prosecution has failed to prove the charges against the accused persons, namely Sri Ramani Talukdar and Mukunda Talukdar; as such the accused persons are acquitted of the charges under section 448/352/509/34 IPC and they are set at liberty.
16. The bail bond of the accused persons and their surety shall remain in force for six months from today.
17. The case is disposed of on contest without cost.

Given under my hand and the seal of this court on this the 07<sup>th</sup> day of February, 2019 at Nalbari.

Shalma Azaz,  
S.D.J.M., (S),  
Nalbari.

P.R.C.CASE NO: 458 of 2018

6

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7

**APPENDIX**

**PROSECUTION EXHIBITS:**

EXHIBIT 1 - EJA HAR

**DEFENCE EXHIBITS**

NONE

**PROSECUTION WITNESSES**

1) SMTI SUSHILA TALUKDAR.

**DEFENCE WITNESSES**

NONE

Shalma Azaz,  
S.D.J.M., (S),  
Nalbari.

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8

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