

P.R.C.CASE NO: 843 of 2018  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: JINNAT ALI AHMED & ORS

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

**P.R.C.CASE NO:843/18**  
**U/S 352/294/506/34 IPC**

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: (1) JINNAT ALI AHMED  
(2) REJAUL ALOM  
(3) NURJAHAN KHATUN  
(4) FARIDA KHATUN

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

ADVOCATE FOR THE PROSECUTION: Smti. M. Chakroverty.

ADVOCATE FOR THE ACCUSED: Smti. H. Dutta.

OFFENCE EXPLAINED ON: 08.2.19.

EVIDENCE RECORDED ON: 15.02.19

ARGUMENT HEARD ON: 22.02.19

JUDGMENT DELIVERED ON: 22.02.19

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### **JUDGMENT**

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Daulasal Police outpost, by the informant/victim, Md. Matiur Rahman on 11.05.18, against the accused persons, Md. Jinnat Ali Ahmed, Rejaul Alom, Nurjahan Khatun and Farida Khatun to the effect that, on 02.05.18 , he went to the Nalbari court to give his evidence relating to the case of Miss Chabila Khatun, and since then the accused persons are threatening to kill him , and on 08.05.18 at about 8 p.m, when the informant was standing in front of his house, at that moment,the accused persons with intention to kill him, the accused Rejaul Alom armed with dao in his hand and other remaining accused persons armed with lathi came and the accused Rejaul Alom stabbed on his left leg with the dao, as a result of which he sustained grievous injuries, and the other accused persons beat him with lathi.
2. The police upon receipt of the ejahar registered it as Mukalmua Police Station case No.169/18 under sections 326/325/506/34 IPC and started investigation in the case. After completion of the investigation the police submitted charge sheet against the accused persons namely, Md. Jinnat Ali Ahmed, Rejaul Alom, Nurjahan Khatun and Farida Khatun under section 294/506/34 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. On perusal of record prima facie materials, against the accused persons were found under section 352/294/506/34 IPC , hence the particulars of the said offences 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 only one witness i.e., the informant/victim of the case. 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 witnesses 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

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not change the merit of the case; as such the evidence of the prosecution side is closed.

5. As there is no incriminating material 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 08.05.18 at about 8 pm, at village Bonpura under Mukalmua P.S., in furtherance of their common intention, used obscene language against the informant in a public place, causing annoyance to the public, and thereby committed the offence under section 294/34 of IPC?
  - (2) Whether the accused persons, on 08.05.18 at about 3 pm, in the evening, at village Bonpura under Mukalmua P.S., in furtherance of their common intention, criminally intimidated the informant Md. Matiur Rahman, by threatening to injury to his person, and thereby committed the offence under section 506/34 of IPC?
  - (3) Whether the accused persons, on 08.05.18 at about 8 pm, at village Bonpura under Mukalmua P.S., in furtherance of their common intention, assaulted the informant Matiur Rahman 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:**

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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, Md. Motiur Rahman, who is the informant/victim of this case, has stated that the accused persons, are his own brother, sister-in-law and niece. The PW1 further stated that the incident occurred around 10 months ago, at around 10 a.m., and at that time he was in his house, and regarding a prior land dispute an altercation took place between him and the accused persons and a lots of people gathered and tried to stop the altercation and the parties shoved each other, and later on out of anger and misunderstanding he lodged the ejahar against the accused persons and the accused persons also lodged an ejahar against him. Later on, after talking with each other their misunderstanding was resolved and the land dispute was also resolved. Exhibit 1 is the ejahar. Exhibit 1 (1) is his signature.

In cross examination, the PW1 admitted that the accused persons did not assault him nor threatened him, nor used obscene word. He further stated that they simply had an altercation and out of misunderstanding he lodged the ejahar and presently he has no grievance against the accused persons.

12. On perusal of the case record, it is seen that the accused persons and the informant are of the same family, and they had an altercation regarding land dispute. The perusal of the evidence of the PW1 reveals that he had not at all supported the prosecution version and according to them, PW1 had lodged the ejahar out of anger and in misunderstanding. The PW1 has specifically admitted that the accused persons did not commit the alleged offences, 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 294/506/352/34 of IPC, and therefore, the

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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 Md. Jinnat Ali Ahmed, Rejaul Alom, Nurjahan Khatun and Farida Khatun; as such the accused persons are acquitted of the charges under section 294/506/352/34 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 22<sup>nd</sup> day of February, 2019 at Nalbari.

Shalma Azaz,

S.D.J.M., (S),

Nalbari.

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**APPENDIX**

**PROSECUTION EXHIBITS:**

EXHIBIT 1 : EJA HAR

**DEFENCE EXHIBITS**

NONE

**PROSECUTION WITNESSES**

1) MD MOTIUR RAHMAN

**DEFENCE WITNESSES**

NONE

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

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