

*PRC 280/18*  
*State*  
*vs*  
*Dhrubajyoti Sarma*

**IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>st</sup> CLASS, NALBARI**

**Case No. PRC 280/2018 u/s 294 IPC**

**STATE**

**-Vs-**

**Dhrubajyoti Sarma**

**..... Accused**

Present: RUBINA YASMIN, A. J. S.

Advocates appeared:

Mr. Hem Sarma .....for the State.

Mr. Hiteswar Lahkar .....for the accused.

Date of prosecution evidence – 20.4.19, 12.3.20

Date of argument – 3.6.20

Date of judgment – 11.6.20

**Judgment**

1. Babita Devi initiated the instant case by filing written 'ejahar' before the O/C, Ghograpar PS on 14.3.18. Prosecution case in brief is that, the informant is a widow lady. On 11.3.18 informant went to a relative's house and on 13.3.18 in the evening she attended her matrimonial house. Thereafter at 7.30 pm accused Dhrubajyoti Sarma abused her

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with obscene languages and chased her to cut her with a dagger. Further, on the instigation of accused Binapani Devi, accused Dhrubajyoti Sarma drove her out of the house forcefully and locked the house. She further stated that accused persons are harrasing her mentally.

2. On receipt of the 'ejahar', Ghograpar P.S. Registered the same as Ghograpar P.S. case No. 47/18 u/s 294/341/34 IPC and investigated the matter. On completion of investigation, police filed charge sheet against the accused Dhrubajyoti Sarma u/s 294 IPC.
3. During trial, accused person was allowed to go on bail. Relevant documents of the accused were furnished to him u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, my learned Predecessor found sufficient materials against the accused person u/s 294 IPC.
4. Prosecution in support of the case examined 5(seven) witnesses. Defence side did not examine any witness in support of their claim. Statement of the accused person was recorded u/s 313 of Cr.P.C. Defence case is of total denial.
5. I have heard argument of both sides.

#### **POINTS FOR DETERMINATION**

6. Upon hearing and perusal of the record, I have framed the following points for determination:
  1. Whether the accused person on 13.3.18 at around 7.30 p.m. used obscene languages to the annoyance of informant in a public place and thereby committed an offence punishable u/s 294 IPC?

#### **DISCUSSION, DECISION AND REASONS THEREOF:**

7. I have carefully gone through the entire evidence on record and materials placed before me.
8. Pw 1 Jyotish Sarma deposed in his evidence that incident took place 1 and ½ years ago. Informant Babita's husband has died. After the death of her husband, she developed

love affair with another person of village. For this matter, her mother-in-law scolded her. So Babita filed the case. Babita is not presently at village. Defence declined to cross examine the said witness.

9. Pw 2 Renu Devi deposed in her evidence that Babita's husband has died. Now, she has affair with another person. Over this matter her mother-in-law scolded her. She henceforth lodged this case. Defence declined to cross examine the said witness.
10. Pw 3 Rita Devi deposed in her evidence that Babita's husband has died 4 years ago. She has illicit relationship with another boy. Over this matter, her mother-in-law scolded her. She lodged this case against her mother-in-law. Defence declined to cross examine the said witness.
11. Pw 4 Pratibha Devi deposed in her evidence that incident took place about two years ago. Babita has love affairs with a boy. Her mother-in-law scolded her. She has lodged this case. Defence declined to cross examine the said witness.
12. Pw 5 Babul Kr. Medhi deposed in his evidence that on 14.3.18 he was on his duty in Ghograpar PS. On that day an ejahar was filed by Babita Devi before the O/C. The O/C registered the case as Ghograpar PS case no. 47/18 and entrusted him with the task of investigation. He recorded statement of the complainant. He went to place of occurrence and prepared the sketch map and recorded statement of the witnesses. Accused person was released on bail. On completion of investigation, he has filed the charge sheet against Dhruba Sarma u/s 294 IPC. Ext. 1 is ejahar. Ext. 1(1) is his signature as Office I/c, Ghograpar PS. Ext. 2 is sketch map. Ext. 2(1) is his signature. Ext. 3 is charge sheet. Ext. 3(1) is his signature.
13. On perusal of the entire materials placed before me it transpires that the case was filed against Dhrubajyoti Sarma and charge sheet was also filed against him u/s 294 IPC. However none of the single witnesses have deposed anything incriminating against the accused person Dhrubajyoti Sarma. Moreover the informant Babita Devi's presence before the court as witness could not be procured even after repeated issue of summons. She was also found not reachable on the phone number given in the ejahar. As no other alternative address was found and she could not be produced without delay before the court hence her evidence was dispensed with.

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14. As no incriminating materials are found against the accused person he is acquitted u/s 294 IPC and set at liberty forthwith. The bail bond furnished on behalf of the accused person shall remain in force for a further period of six months.

Given under my hand and seal of this court on this 11th day of June, 2020.

Rubina Yasmin  
J.M.F.C. Nalbari

#### **APPENDIX**

##### **Prosecution witness:**

*Pw 1– Jyotish Sarma*

*PW 2– Renu Devi*

*Pw 3 – Rita Devi*

*Pw 4 – Pratibha Devi*

*Pw 5 – SI Babul Kr. Medhi*

##### **Prosecution Exhibits:**

*Ex 1 – ejahar*

*Ex 2 – Sketch map*

*Ex 3 – Charge sheet*

##### **Defence witness & Exhibits:**

*Nil*

Rubina Yasmin

J.M.F.C. Nalbari