

P.R.C no. 103/2019

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, NALBARI**

P.R.C no. 103/2019

u/s 341/294/323 I.P.C

State of Assam

-Vs-

Arati Kalita.....Accused

**PRESENT:** K.C. Boro, A.J.S.

**ADVOCATES APPEARED:**

For the State : Mr. D. Talukdar, Ld. A.P.P,

For the accused : Smti. Mousumi Baruah, Ld. Advocate,

Dates of evidence : 13/08/19 & 07/03/20.

Date of argument : 19/10/20.

Date of judgment : 22/10/20.

**J U D G M E N T**

**PROSECUTION CASE:**

1. The prosecution case in brief as unfolded from the 'ejahar' dated 26/10/2017 filed by the informant Md. Aslam Ali is that on 26/10/2017 at about 7:45 pm, while he was returning home from Nalbari town, accused persons namely Rahul Kalita and Arati Kalita restrained him in front of their house and verbally abused him with obscene language and threatened him. The accused persons also assaulted him over various parts of his body causing injuries. Hence the case.

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2. The said 'ejahar' was received and registered as Nalbari P.S case no. 809/17 u/s 341/294/323/34 I.P.C. After completion of investigation charge-sheet no. 420/17 dated 31/10/17 was submitted against accused Arati Kalita u/s 341/294/323 I.P.C. Copy was furnished to the accused person. Particulars of offence u/s 341/294/323 I.P.C was read over and explained to the accused person to which she pleaded not guilty and claimed to be tried.

3. **POINTS FOR DETERMINATION:**

I. Whether the accused Arati Kalita on 26/10/2017 at about 7:45 pm, wrongfully restrained the informant Aslam Ali so as to prevent him from proceeding in a direction in which he had right to proceed and thereby committed an offence punishable u/s 341 I.P.C?

II. Whether the accused on the aforesaid date & time uttered obscene words in or near any public place to the annoyance of informant Aslam Ali and thereby committed an offence u/s 294 I.P.C?

III. Whether the accused on the aforesaid date & time voluntarily caused hurt to the informant Aslam Ali and thereby committed an offence u/s 323 I.P.C?

4. **DECISION AND REASONS THEREOF:**

The prosecution examined three (3) witnesses while the defence declined to adduce any evidence. Finding no incriminating materials the recording of statement in defence of the accused person u/s 313 Cr.P.C was dispensed with. I have heard the arguments advanced by learned counsels of both the sides and also perused the evidence available on record, my findings with reasons are as follows :

5. PW 1 Md. Aslam Ali who is the informant deposed that he filed this case against accused Arati Kalita. The incident took place due to an altercation. The incident took place while he was returning home from Nalbari and as such he filed the ejahar. They have amicably settled the matter between them. He does not want to proceed with the instant case.

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6. PW 2 Rinku Ali deposed that he knows both the informant and the accused person. The incident took place on 26/10/2017 at about 7:30 pm during evening time. A verbal altercation took place after which the informant filed this case. The matter has been settled now and there is no dispute between both the parties.

7. PW 3 Nazimuddin Ahmed deposed that he knows both the parties. The incident took place at about 7:30 pm during evening time. He was in his home at that time. A verbal altercation had taken place after which the informant had filed the ejahar. The matter has been settled now.

8. It appears that PW 1 deposed that the incident took place due to an altercation and as such he filed the ejahar. PW 1 also deposed that he has amicably settled the matter with the accused person and he does not want to proceed with the instant case.

9. On appreciation of the testimony of witnesses and the materials available on record, I find that the prosecution has failed to establish the essential ingredients so required to constitute the charged offence beyond reasonable doubt by leading clear, cogent & convincing evidence. The accused person namely Smri. Arati Kalita is found not guilty u/s 341/294/323 I.P.C and hence, acquitted and set at liberty forthwith. Bail bond shall remain in force for a further period of six months.

Given under my hand and seal of this court on this 22<sup>nd</sup> day of October, 2020.

Chief Judicial Magistrate  
Nalbari

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**APPENDIX**

**Prosecution witness:**

PW 1- Md. Aslam Ali (Informant),

PW 2- Md. Rinku Ali,

PW 3- Najimuddin Ahmed,

**Prosecution Exhibits:**

Exhibit 1- Ejahar,

Exhibit 1(1)- Signature of informant Aslam Ali,

**Defence witnesses :**

Nil

**Defence Exhibits :**

Nil

Chief Judicial Magistrate,  
Nalbari

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**22/10/2020**

**ORDER**

Accused Arati Kalita is represented by her engaged counsel Mousumi Baruah.

Judgment is pronounced and delivered in open court.

On appreciation of the testimony of witnesses and the materials available on record, I find that the prosecution has failed to establish the essential ingredients so required to constitute the charged offence beyond reasonable doubt by leading clear, cogent & convincing evidence.

The accused person namely Smti. Arati Kalita is found not guilty u/s 341/294/323 I.P.C and hence, acquitted and set at liberty forthwith. Bail bond shall remain in force for a further period of six months.

Hence, this case stands disposed of.

Chief Judicial Magistrate,  
Nalbari