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|-----|------------------|--|------|--------------------|-----------|-----|---------------------------------------|
| | | | bail | | | | for the purpose of section 428 of IPC |
| A-1 | Sri Dwijen Dekha | | | U/S 294/506 of IPC | Acquitted | N/A | N/A |
| A-2 | Sri Biplab Dekha | | | | | | |

APPENDIX-13

| | |
|--------------------------------------|------------|
| Date of offence | 18/03/2019 |
| Date of FIR | 19/03/2019 |
| Date of charge-sheet | 30/06/2019 |
| Date of O.E. | 31/05/2022 |
| Date of commencement of evidence | 12/09/2022 |
| Date on which judgment is reserved | N/A |
| Date of judgment | 12/09/2022 |
| Date of the Sentencing Order, if any | N/A |

(J U D G M E N T)

1. The prosecution case sets into motion by filing a FIR by the informant, Smti Parul Deka stating that on 18/03/2019 at about 9:00 P.M., when she was alone at her house, the accused persons namely Sri Dwijen Deka, Sri Biplab Deka, Sri Mrinal Deka and Smti Junu Deka entered into her courtyard holding lathi, dao etc., scolded her in filthy language, assaulted her causing injury to her person, used criminal force and pulled her wearing apparels. It is further alleged that Smti Junu Deka stole gold ring and gold chain from her. Hence, she has lodged this case.
2. The Officer-in-charge, Mukalmua Police station, on receipt of the Ejahar registered Mukalmua P.S. Case No. 141/2019, under section 447/294/325/354/379 of IPC and endorsed the concerned I/O for investigation. After completion of the investigation, the concerned I/O submitted charge sheet against the accused persons, Sri Dwijen Deka and Sri Biplab Deka under Section 294/506 of IPC.
3. In due course, the accused persons appeared before the Court and the copies of relevant documents were furnished to them as per section 207 of CrPC. Particulars of offence u/s 294/506 of 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 two (02) witnesses. The Learned Assistant Public Prosecutor prayed to close the PW evidence as no incriminating material is found against the accused persons. The PW evidence is closed as per the submission of the Ld. APP.
5. The statements of the accused persons under section 313 of Cr.P.C. are dispensed with as there are no incriminating materials found against the accused persons. Defence side examined no witnesses.
6. I have heard the arguments advanced by the Learned Counsels for both sides.

7. POINTS FOR DETERMINATION:-

- (i) *Whether the accused persons, Sri Dwijen Deka and Sri Biplab Deka, on 18/03/2019 at about 9:00 P.M., at Jaha, under the jurisdiction of Mukalmua P.S. committed an obscene act causing annoyance to others and thereby committed an offence punishable under section 294 of I.P.C.?*
- (ii) *Whether on the same day, time and place the accused persons, Sri Dwijen Deka and Sri Biplab Deka, committed criminal intimidation by threatening the informant Smti Parul Deka with intent to cause alarm to the informant Smti Parul Deka and thereby committed an offence u/s 506 of I.P.C.?*

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** The instant case is registered on the receipt of the FIR lodged by PW1, Smti. Parul Deka, who is the informant of this case. From the testimony of PW1 it is found that the accused persons are her brother-in-law. She lodged the case about 3 years back. Now, they have amicably settled their dispute. She does not want to proceed with the case by adducing evidence. She has no grievance/allegation against the accused persons. During cross-examination, PW-1 stated that she has no objection if the accused persons get acquittal in this case.
- 9.** PW-2, Sri Jiten Deka deposed stated that the informant is his wife. She lodged the case against the accused persons due to misunderstanding. They are his brothers. She lodged the case about 3 years back. Now, they have amicably settled their dispute. She does not want to proceed with the case by adducing evidence. He has no grievance/allegation against the accused persons. During cross-examination, PW-2 stated that he has no objection if the accused persons get acquittal in this case.
- 10.** From the evidence of PW-1 (informant) and PW-2, it is seen that they amicably settled their dispute and they

have no objection if the accused persons get acquittal in this case. Hence, there is nothing in the evidence incriminating against the accused persons that they have committed offence under section-294/506 of IPC.

- 11.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons under section-294/506 of IPC as the informant of the case has not supported the prosecution story.

CONCLUSION

12. The prosecution side failed to prove its case that accused persons have committed offence u/s 294/506 of IPC.

ORDER

In the light of aforesaid discussions and reasons, it is seen that the prosecution side failed to prove the guilt of the accused persons beyond reasonable doubt.

Accordingly, the accused persons Sri Dwijen Deka and Sri Biplab Deka are acquitted from the offence under section 294/506 of IPC and they are set at liberty forthwith.

The bail bonds of the accused persons and their sureties shall remain in force for a period of 6 months from today as per amended CrPC.

Given under my hand and seal of this court on this 12th day of September, 2022.

Sri Jayanta Kumar Saikia
Addl. Chief Judicial Magistrate
Nalbari

APPENDIX-14**LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES****A. Prosecution witness**

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|------------------|---|
| PW-1 | Smti. Parul Deka | Informant |
| PW-2 | Sri Jiten Deka | Other witness |

B. Defence witnesses, if any: NOT APPLICABLE

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|-------------|---|
|-------------|-------------|---|

C. Court witnesses, if any: NOT APPLICABLE

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH |
|-------------|-------------|---|
|-------------|-------------|---|

| | | |
|--|--|-------------------------|
| | | WITNESS, OTHER WITNESS) |
|--|--|-------------------------|

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

A. Prosecution: NOT APPLICABLE

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
|----------------|-----------------------|--------------------|

B. Defence: NOT APPLICABLE

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
|----------------|-----------------------|--------------------|

C. Court Exhibits: NOT APPLICABLE

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
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D. Material Objects: Not applicable

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
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Sri Jayanta Kumar Saikia
Addl. Chief Judicial Magistrate
Nalbari