

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 08/09/2022

Case – PRC no. 122/2020

The case arose out of FIR lodged by informant Sri Biplab Baruah, registered on 24/12/2019 vide Belsor P.S case no. 324 u/s 341/323/294/506/336 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Sri Biplab Baruah)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Sri Ratul Baishya / A-1, S/o – Sri Lalit Baishya, Village – Jagara Satra Suba, PS - Belsor & Dist – Nalbari.
Represented by	Mr. Deep Jyoti Saloi (Ld. Defence Advocate)

Date of Offence	22/12/2019
Date of FIR	23/12/2019
Date of Charge sheet	30/12/2019 vide Charge sheet no. 179
Date of Framing of Charges	20/03/2021
Date of commencement of evidence	08/09/2022
Date on which judgment is reserved	N/A
Date of Judgment	08/09/2022
Date of the Sentencing Order, if any	N/A

J U D G M E N T

PROSECUTION CASE:

1. The prosecution case in brief as unfolded from the 'ejahar' dated 23/12/2019 filed by the informant Sri Biplab Baruah is that on the previous day i.e., on 22/12/2019 at about 7 pm, the FIR named accused Ratul Baishya assaulted his elder brother Bimal Seal at the road due to earlier grudge and caused injury to him. His elder brother ran to their house out of fear and then the accused armed with 'lathi', 'tangon' etc., came chasing to their house and scolded them with obscene language and also threatened to kill them. The accused also pelted stones, bricks to their house. Hence the case.

2. The said 'ejahar' was received and registered as Belsor PS case no. 324/2019 u/s 341/323/294/506/336 I.P.C. After completion of investigation charge-sheet no. 179 dated 30/12/2019 was submitted against accused Ratul Baishya u/s 294/323/336 I.P.C. Copy was furnished to the accused person. Particulars of offence and substance of accusation u/s 294/323/336 IPC was read over and explained to the accused person to which the accused pleaded not guilty and claimed to be tried.

3. POINTS FOR DETERMINATION

(i) Whether on 22/12/2019 at about 7 pm at village Jagara under Belsor PS, the accused uttered obscene language in or around any public place to the annoyance of the informant and his family members and thereby committed an offence u/s 294 IPC?

(ii) Whether on 22/12/2019 at about 7 pm at village Jagara under Belsor PS, the accused voluntarily caused hurt to the informant and thereby committed an offence u/s 323 IPC?

(iii) Whether on 22/12/2019 at about 7 pm at village Jagara under Belsor PS, the accused acted rashly and negligently by pelting stones and bricks upon the house of the informant endangering human life or the personal safety of others and thereby committed an offence u/s 336 IPC?

4. DECISION AND REASONS THEREOF:

The prosecution examined two (2) witnesses. The defence declined to adduce any evidence. Finding no incriminating materials, the statement in defence of the accused person u/s 313 Cr.P.C was dispensed with. I have heard the argument advanced by learned counsel of both the sides and also perused the evidence available on record, my findings with reasons are as follows –

5. PW-1, Biplab Baruah who is the informant deposed that he lodged this case against accused Ratul Baishya. On the day of incident he was not present in their home. A verbal altercation took place between his elder brother Bimal Sil and the accused person and later he filed the FIR against the accused person. PW-1 stated that they have settled the matter amicably and as such he has no objection if the accused is acquitted from the instant case.

6. PW-2, Bimal Baruah who is the victim deposed that informant is his brother and he knows the accused person. The incident occurred 3 years ago at night time. An altercation took place between him and the accused person due to some domestic affairs and later his brother filed a case against the accused. PW-2 stated that they have settled the matter amicably and he has no objection if the accused is acquitted from this case.

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7. This is a case under Section 294/323/336 IPC, where PW-1 & PW-2 who are the informant/victim of this case stated in their evidence that they have settled the matter amicably and as such they have no objection if the accused is acquitted from the instant case. Both the witnesses being the main witness did not support their own case and further they did not state anything incriminating against the accused person and as such the guilt of the accused person could not be established by the prosecution. Hence, the accused person is hereby declared to be not guilty of the offence u/s 294/323/336 of the Indian Penal Code.

8. The accused person namely Sri Ratul Baishya is hereby acquitted of the charges u/s 294/323/336 I.P.C. Bail bond is extended till the expiry of six months from today.

9. Judgment is pronounced in open court. Case is disposed of on contest.

10. Given under my hand and seal of this court on this 8th day of September, 2022.

Chief Judicial Magistrate
Nalbari

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of release on bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C
A-1	Ratul Baishya	26/12/2019	26/12/2019	294/ 323/ 336 IPC	Acquitted	N/A	N/A

Chief Judicial Magistrate
Nalbari

List of Prosecution / Defence / Court Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
PW-1	Biplab Baruah	Informant
PW-2	Bimal Baruah	Victim

B. Defence Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

C. Court Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

Chief Judicial Magistrate

Nalbari

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit number	Description
1.	Exhibit P-1 / PW-1	Ejahaar
2.	Exhibit P-1(1) / PW-1	Signature of informant

B. Defence:

Sr. No.	Exhibit Number	Description
Nil		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
Nil		

D. Material Objects:

Sr. No.	Exhibit Number	Description
Nil		

Chief Judicial Magistrate
Nalbari