

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 08/09/2022

Case – PRC no. 568/2020

The case arose out of FIR lodged by informant Smti Dipti Rekha Pathak, registered on 23/12/2019 vide Belsor P.S case no. 322 u/s 354(A)/341/325 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Smti Dipti Rekha Pathak)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Sri Bimal Sil @Bezbaruah / A-1, S/o – Sri Prafulla Sil, Village – Jagara Satra Chuburi, PS - Belsor & Dist – Nalbari.
Represented by	Mr. Ashim Talukdar (Ld. Defence Advocate)

Date of Offence	22/12/2019
Date of FIR	23/12/2019
Date of Charge sheet	27/12/2019 vide Charge sheet no. 170
Date of Framing of Charges	30/11/2021
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 22/12/2019 filed by the informant Smti Dipti Rekha Pathak is that FIR named accused person used to torture her from earlier and gave explicit gestures to her and on 22/12/2019 at about 8:20 pm, the accused restrained her husband Ratul Baishya while he was returning home from the house of Bandhu Ram Baishya and assaulted him on various parts of his body and caused injury to him. Her husband was taken to SMK Civil Hospital, Nalbari for treatment. Hence the case.

2. The said 'ejahar' was received and registered as Belsor PS case no. 322/2019 u/s 354(A)/341/325 I.P.C. After completion of investigation charge-sheet no. 170 dated 27/12/2019 was submitted against accused Bimal Sil @Bezbaruah u/s 341/323 I.P.C. Copy was furnished to the accused person. Particulars of offence and substance of accusation u/s 341/323 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 8:20 pm at village Jagara Satra Chuburi under Belsor PS, the accused wrongfully restrained Ratul Baishya from proceeding in a direction in which he had right to proceed and thereby committed an offence u/s 341 IPC?

(ii) Whether on 22/12/2019 at about 8:20 pm at village Jagara Satra Chuburi under Belsor PS, the accused voluntarily caused hurt to Ratul Baishya and thereby committed an offence u/s 323 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, Dipti Rekha Pathak who is the informant deposed that she lodged this case against the accused Bimal Baishya due to some misunderstanding between them. Later on they settled the matter amicably with the accused person.

6. PW-1 during cross-examination stated that she does not have any objection if the accused is acquitted.

7. PW-2, Ratul Baishya who is the victim deposed that informant is his wife and accused is his co-villager. Due to some misunderstanding his wife lodged this case against the accused. PW-2 stated that they have settled the matter amicably with the accused person.

8. This is a case under Section 341/323 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 341/323 of the Indian Penal Code.

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9. The accused person namely Bimal Sil is hereby acquitted of the charges u/s 341/323 I.P.C. Bail bond is extended till the expiry of six months from today.

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

11. 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	Bimal Sil	25/12/2019	25/12/2019	341/323 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	Dipti Rekha Pathak	Informant
PW-2	Ratul Baishya	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