

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 23/09/2022

Case – PRC no. 678/2021

The case arose out of FIR lodged by informant Miss Nurbanu Bibi, registered on 23/08/2020 vide Belsor P.S case no. 234 u/s 325 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Miss Nurbanu Bibi)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Md. Samsul Haque Choudhuri / A-1, S/o – Lt. Samsuddin Ali, Village – Amani Nalana, PS - Belsor & Dist – Nalbari.
Represented by	Mr. Manas Jyoti Misra (Ld. Defence Advocate)

Date of Offence	23/08/2020
Date of FIR	23/08/2020
Date of Charge sheet	30/08/2020 vide Charge sheet no. 119
Date of Framing of Charges	20/07/2022
Date of commencement of evidence	23/09/2022
Date on which judgment is reserved	N/A
Date of Judgment	23/09/2022
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 23/08/2020 filed by the informant Miss Nurbanu Bibi is that on 23/08/2020 the FIR named accused Samsul Haque Choudhuri assaulted her, her son Nur Islam, her daughter Sakiran Nessa and Alimun Nessa with a bamboo 'lathi' and caused severe injury to them. Due to the assault blood came out of her head and her son also sustained severe injury on his left hand. Hence the case.

2. The said 'ejahar' was received and registered as Belsor PS case no. 234/20 u/s 325 I.P.C. After completion of

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investigation charge-sheet no. 119 dated 30/08/2020 was submitted against accused Md. Samsul Haque Choudhuri u/s 294/323 I.P.C. Copy was furnished to the accused person. Particulars of offence u/s 294/323 IPC was explained to the accused person to which the accused pleaded not guilty and claimed to be tried.

3. POINTS FOR DETERMINATION

(i) Whether on 23/08/2020 at village Amani Nalana under Belsor P.S, the accused uttered obscene words in or around any public place to the annoyance of the informant and her family members and thereby committed an offence punishable u/s 294 IPC?

(ii) Whether on 23/08/2020 at village Amani Nalana under Belsor P.S, the accused voluntarily caused hurt to the informant, her son Nur Islam, her daughter Sakiran Nessa and Alimun Nessa and thereby committed an offence punishable u/s 323 I.P.C?

4. DECISION AND REASONS THEREOF:

The prosecution examined the informant and victim as PW-1 & PW-2. 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, Nurbanu Bibi who is the informant deposed that accused is her eldest son. On 23/08/2020 during morning time, the accused entered into a verbal altercation with her, her daughter and her younger son and being offended, she filed this case against the accused. PW-1 deposed that later she has settled the matter amicably and as the accused is her eldest son, she does not want to proceed further with this case and she does not have any objection if the accused is acquitted in this case. Exhibit P-1/PW-1 is the FIR and Exhibit P-1(1)/PW-1 is her signature.

6. PW-2, Alimun Nessa Begum who is the victim deposed that informant is her mother and the accused is her elder brother. On 23/08/2020 during morning time, the accused entered into a verbal altercation with her, her mother and her brother on being instigated by the wife of accused. PW-2 deposed that later her mother filed the case against the accused. PW-2 also deposed that they have settled the matter amicably and she does not want to proceed with this case and also does not have any objection if the accused is acquitted.

7. This is a case under Section 294/323 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 with the accused and as the accused is their son / brother respectively, they does not want to proceed further with this case and they does not have any objection if the accused is acquitted in this case.

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8. Now, PW-1 & PW-2 being the main witness did not support their own case and 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 not guilty of the offence u/s 294/323 of the Indian Penal Code.

9. Considering the nature of evidence adduced by the prosecution, the accused Md. Samsul Haque Choudhuri is hereby acquitted from the charges u/s 294/323 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 23rd 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	Md. Samsul Haque Choudhuri	25/08/2020	25/08/2020	294/323 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	Miss Nurbanu Bibi	Informant

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	Ejahar
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