

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 23/09/2022

Case – PRC no. 706/2021

The case arose out of FIR lodged by informant Smti Golapi Das, registered on 06/09/2020 vide Mukalmua P.S case no. 377 u/s 448/354(A)/326 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Smti Golapi Das)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Sri Bhupen Das / A-1, S/o – Lt. Chella Das, Village – Ghorathal no. 2, PS - Mukalmua & Dist – Nalbari.
Represented by	Mr. Prabin Sarma (Ld. Defence Advocate)

Date of Offence	05/09/2020
Date of FIR	06/09/2020
Date of Charge sheet	30/11/2020 vide Charge sheet no. 328
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 05/09/2020 filed by the informant Smti Golapi Das is that on 05/09/2020 at about 10 am, when her parents and her husband were not present in the house, the FIR named accused Bhupen Das by taking advantage of the same came to her house and closed the door and thereafter forcefully tried to rape her and when she raised 'hulla', the accused badly punched her and caused injury on her right eye with a knife. When she somehow tried to come outside, the accused pulled her wearing nighty resulting which her nighty was torn. Hearing

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her 'hulla', when her 'mami' Dhanmani Das came running to the P.O, the accused fled away from her house. Hence the case.

2. The said 'ejahar' was received vide Daulashal O.P GDE no. 92 dated 05/09/2020 and later registered as Mukalmua PS case no. 377/20 u/s 448/354(A)/326 I.P.C. After completion of investigation charge-sheet no. 328 dated 30/11/2020 was submitted against accused Bhupen Das u/s 448/354(A)/326 I.P.C. Copy was furnished to the accused person. Charges u/s 448/354(A)/324 IPC was framed, 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 05/09/2020 at about 10 am at village Ghorathal under Mukalmua P.S, the accused committed criminal trespass by entering into the house of the informant used as a human dwelling and thereby committed an offence punishable u/s 448 I.P.C?

(ii) Whether on 05/09/2020 at about 10 am at village Ghorathal under Mukalmua P.S, the accused committed physical contact and advances involving unwelcome and explicit sexual overtures to the informant and thereby committed an offence punishable u/s 354(A) I.P.C?

(iii) Whether on 05/09/2020 at about 10 am at village Ghorathal under Mukalmua P.S, the accused voluntarily caused hurt to the informant by means of a knife used for stabbing or

cutting, which used as a weapon of offence is likely to cause death and thereby committed an offence punishable u/s 324 I.P.C?

4. DECISION AND REASONS THEREOF:

The prosecution examined the informant / victim as PW-1. 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, Golapi Das who is the informant cum victim of this case deposed that she lodged this case against accused Bhupen Das who is her neighbour. On 05/09/2020 at about 10 am, the accused came to her house in connection with some domestic matter and thereafter entered into a verbal altercation with her and later out of anger she filed this case. PW-1 deposed that she has settled the matter amicably with the accused person and she does not have any objection if the accused is acquitted in this case. She has given her thumb impression in the FIR as she is illiterate.

6. This is a case under Section 448/354(A)/324 IPC, where PW-1 who is the informant/victim of this case stated in her evidence that she has settled the matter amicably with the accused person and she does not have any objection if the

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accused is acquitted in this case. Now, PW-1 being the main witness did not support her own case and she 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 448/354(A)/324 of the Indian Penal Code.

7. Considering the nature of evidence adduced by the prosecution, the accused Sri Bhupen Das is hereby acquitted from the charges u/s 448/354(A)/324 I.P.C. Bail bond is extended till the expiry of six months from today.

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

9. 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	Bhupen Das	Absconder	25/04/2022	448/354 (A)/324 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	Golapi Das	Informant/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		

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LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit number	Description
Nil		

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