

IN THE COURT OF JUDICIAL MAGISTRATE 1ST
CLASS:::::NALBARI

Present: SMTI NADIA REHMAN, AJS, JMFC, Nalbari

Dated:08.09.2022

P.R.Case No.340 of 2020

Ghagrapar P.S.Case No.217/2020

(F.I.R. registered u/s 498(A)/448/323/294/34 I.P.C.)

COMPLAINANT :	State of Assam
REPRESENTED BY	Mr. Hem Chandra Sarma, Ld. APP
ACCUSED	1) Sri Dipjyoti Pathak (A-1),
REPRESENTED BY	Kamal Ali Ld. Defence Counsel

Date of Offence	18-05-2020
Date of FIR	20-05-2020
Date of Charge sheet	31-05-2020
Date of charge framed	14-03-2022
Date of commencement of evidence	02-04-2022
Date on which judgment is reserved	N/A
Date of Judgment	08-09-2022

Date of the Sentencing Order, if any	Acquitted
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: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	Dipjyoti Pathak	Not arrested	N/A	U/s- 323/447/506 of IPC	Acquitted	N/A	N/A

(J U D G M E N T)

1. In this case the accused person namely Sri Dipjyoti Pathak, S/O:Sri Dhruba Mohan Pathak, Village:Bhakatpara, P.S.:Barpeta & Dist:-Barpeta (Assam) stood for trial u/s 323/447/506 of the IPC.
2. Prosecution case as unfolded from the ejahar, dated 20.05.2020, lodged before O/C Ghagrapar P.S., by the informant Smti. Kabita Kalita is about nine years ago

the informant got married with the accused person. As a result of their conjugal life she became mother of a female child. After the marriage the accused person tortured her physically and mentally demanding dowry. As she could not bear the torture of the accused person, she lived at her parental house. That on 18.05.2020 at about 1:30 p.m., the accused person illegally entered into the house of the informant, rebuked her with filthy language and slapped her. The accused person and gave threaten to kill her. Hence, this case was arisen.

3. The O/C Ghagrapar P.S., registered the case as Ghagrapar P.S. case No.217/2020 u/s 498(A)/448/323/294/34 I.P.C. and investigated the matter. On completion of investigation, police filed charge sheet against the accused person namely Dipjyoti Pathak u/s 447/323/294/506 I.P.C.
4. During trial, the accused person namely Dipjyoti Pathak was allowed to go on bail. Relevant copies of the documents were furnished to him u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, sufficient materials was found against the accused person u/s 323/447/506 I.P.C. and contents of the charges was read over and explained to the

accused person to which, he pleaded not guilty and claimed to be tried.

5. Prosecution in support of the case examined two witnesses and declined to adduce further evidence. The examination of the accused person namely Dipjyoti Pathak u/s 313 of Cr.P.C. was dispensed with as no incriminating material was found against him. Defence declined to adduce evidence on his behalf.
6. This court has heard argument of both sides.

POINTS FOR DETERMINATION:

7. Upon hearing and perusal of the record, this court has framed the following points for determination.

(i) *Whether the accused person namely Dipjyoti Pathak on 18.05.2020 at about 1:30 p.m., at village Bhakatpara under Barpeta p.s., voluntarily caused hurt to the informant Smti. Kabita Kalita and thereby committed an offence punishable u/s 323 of I.P.C ?*

(ii) *Whether the accused person namely Dipjyoti Pathak on the same day, time and place committed criminal trespass by entering illegally into the compound of*

informant Smti. Kabita Kalita and intent to intimidate, insult and annoy her or to commit any offence and thereby committed an offence under section 447 of I.P.C.?

(iii) Whether the accused person namely Dipjyoti Pathak on the same day, time and place committed criminal intimidation by threatening informant Smti. Kabita Kalita with dire consequence and thereby committed an offence punishable u/s 506 of I.P.C.?

DISCUSSION, DECISION, AND REASONS THERE OF:

8. This court has carefully gone through the entire evidence-on-record and materials placed before this court.

9. The prosecution has examined two witnesses namely, Dr. Bhabesh Das and informant Kabita Kalita, informant of the case.

10. PW1 Dr. Bhabesh Das deposed in examination-in-chief that on 20.05.2020, he was posted as Medical and Health Officer at Ghagrapar PHC. On that day, he was working at OPD duty. On that day, he examined Kabita Kalita, 31 years, Narpara, Ghagrapar P.S. in

connection to Ghagrapar P.S.Case No.217/2020. The patient was escorted by WPC/286 Sangita Rajbongshi, Ghagrapar P.S.

On examination he found:-

(i) No external injury.

History of injury was alleged assault.

In his opinion, the injury was simple. The injury was caused by blunt object.

Ext.P-1/PW-1 is the medical report of Kabita Kalita and Ext.P-1(1)/PW-1 is his signature.

During cross-examination he admitted that he does not bring the patient's entry book to this court.

11. P.W.1 Kabita Kalita, the informant deposed in her examination-in-chief that she lodged this case against her husband Dipjyoti Pathak. She legally married to Dipjyoti Pathak in the year 2011. During the wedlock, she gave birth of a girl child. Due to some household matters, quarrels took place between her and her husband and she left the house of her husband along with her child. Out of anger, she lodged FIR against at Ghagrapar P.S. However, later

on, the matter was amicably settled between them and at present they are living happily in her husband's house. Hence, she does not want to proceed with this case. She has no objection if the accused person acquitted from this case. Ext.P-1/PW-1 is the ejahar and Ext.P-1(1)/PW-2 is his signature.

12. Cross-examination declined by defence.

13. On perusal of the evidence-on-record, it is seen that there is no deposition which could suggest that the accused person had committed any kind of criminal trespass by entering illegally into the compound of the informant with an intent to commit an offence or voluntarily cause hurt to informant, or committed criminal intimidation by threatening informant Smti. Kabita Kalita with dire consequence. No single instance of criminal trespass, voluntarily causing hurt, criminal intimidation has been mentioned by PW2 in her evidence deposed in court. It appears that due to household matters quarrel took place between her and the accused person and she left the house of the accused person along with her child and out of anger she lodged FIR against the accused person at Ghagrapar P.S. However, the matter is amicably settled between them and at

present they are living happily in her husband's house and she does not want to proceed with this case and she has no objection if the accused person acquitted from this case. On the other hand PW1 is Dr. Bhabesh Das and his deposition is formal in nature.

14. Therefore, the witnesses examined by prosecution side, has not supported the prosecution case. In result, there are no incriminating material found against the present accused person.

15. This court therefore, finds that the prosecution has failed to establish the guilt of the accused person beyond reasonable doubt. As such, accused person namely Dipjyoti Pathak is not held guilty of the offence punishable u/s 323/447/506 I.P.C. and accordingly, he is acquitted and set at liberty forthwith.

16. The bail bond furnished on behalf of the accused person shall remain in force for a further period of six months.

17. Seized articles if any, are to be disposed of as per law in due course.

18. Given under my hand and seal of this court on this 08th day of September, 2022.

SMTI NADIA REHMAN, AJS
J. M. 1ST CLASS, NALBARI.

Typed & corrected by me

Smti. Nadia Rehman, J.M.F.C., Nalbari.

APPENDIX

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	Dr. Bhabesh Das	Medical Officer
PW-2	Kabita Kalita	Informant

B. Defence Witnesses, if any: Nil

C. Court Witnesses, if any : Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Ext.P-1/PW-1	Injury report
2	Ext.P-1(1)/PW-1	Signature of PW-1
3	Ext.P-1/PW-1	Ejahaar
4	Ext.P-1(1)/PW-1	Signature of PW-2

B. Defence : Nil

C. Court Exhibits: Nil

D. Material Objects: Nil

Smti. Nadia Rehman, AJS

J. M. 1ST CLASS, NALBARI.