

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

Present: SMTI NADIA REHMAN, AJS, JMFC, Nalbari

Dated:09.09.2022

P.R.Case No.661 of 2020

Ghagrapar P.S.Case No.40/2020

(F.I.R. registered u/s 294/323/352 I.P.C.)

COMPLAINANT :	State of Assam
REPRESENTED BY	Mr. Hem Chandra Sarma, Ld. APP
ACCUSED	1) Sri Rakesh Das (A-1),
REPRESENTED BY	Janali Das Ld. Defence Counsel

Date of Offence	30-01-2020
Date of FIR	30-01-2020
Date of Charge sheet	N/A
Date of offence explained	08-12-2021
Date of commencement of evidence	07-09-2022
Date on which judgment is reserved	N/A
Date of Judgment	09-09-2022

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	Rakesh Das	Not arrested	N/A	U/s- 341/294/352/506 of IPC	Acquitted	N/A	N/A

(JUDGMENT)

1. In this case the accused person namely Sri Rakesh Das, S/O:Sri Chandmal Das, Village:Allia, Bangaon, P.S.:Ghagrapar, Dist:-Nalbari (Assam) stood for trial u/s 341/294/352 of the IPC.

2. Prosecution case as unfolded from the ejahar, dated 30.01.2020, lodged before O/C Ghagrapar P.S., by the informant Smti. Archana Das is that on the same day at about 7 a.m., the mother of the accused person Rakesh Das, namely Khirada Das went in front of the house of the informant and rebuked her and got into an altercation and at that moment, the accused person chased her and pushed and dragged her and also beat her. At that moment, when her mother-in-law Prativa Das arrived at the place of occurrence the accused person also beat her mother-in-law and tore her wearing apparels. Hence, this case was arisen.

3. The O/C Ghagrapar P.S., registered the case as Ghagrapar P.S. case No.40/2020 u/s 294/323/352 I.P.C. and investigated the matter. On completion of investigation, police filed charge sheet against the accused person namely Rakesh Das u/s 341/294/352/506 I.P.C.

4. During trial, the accused person namely Rakesh Das 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 341/294/352 I.P.C. and offence 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 Rakesh Das 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 Rakesh Das on 30.01.2020 at about 7 a.m., at village Allia, Bangaon under Ghagrapar P.S. wrongfully restrained informant Archana Das

and thereby committed an offence punishable u/s 341 of I.P.C. ?

(ii) Whether the accused person namely Rakesh Das on the same day, time and place used obscene language against the informant Smti. Archana Das in a public place causing annoyance to other and thereby committed offence punishable u/s 294 of IPC.?

(iii) Whether the accused person namely Rakesh Das on the same day, time and place assaulted or used criminal force upon informant Archana Das and her mother-in-law Prativa Das and thereby committed offence punishable u/s 352 of IPC.?

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, Smti Archana Das informant of the case and her mother-in-law Prativa Das.

10. P.W.1 Archana Das, the informant deposed in her examination-in-chief that she lodged this case against Rakesh Das. He is her co-villager. The incident took place about two years ago in the morning time. She and her mother-in-law had an argument against the accused person on a family related matter due to which she had lodged the ejahar. However, the matter is amicably settled between them. Hence, at present she does not want to proceed with this case. She has no objection if the accused person is acquitted from this case. Ext.P-1/PW-1 is the ejahar and Ext.P-1(1)/PW-1 is her signature.

11. Cross-examination declined by defence.

12. P.W.2 Prativa Das, deposed in her examination-in-chief that she knows the informant of this case, she is her daughter-in-law. She know the accused Rakesh Das, he is their co-villager. The incident took place about two years ago in the morning time. She and her daughter-in-law had an argument against the accused

person on a family related matter due to which her daughter-in-law have lodged the ejahar. However, the matter is amicably settled between them. Hence, at present she does not want to proceed with this case. She has no objection if the accused person is acquitted from this case.

13. Cross-examination declined by defence.

14. 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 wrongfully restrained, used obscene language and used criminal force upon the informant and her mother-in-law. No single instance of wrongfully restrained, used obscene language and used criminal force upon the informant and her mother-in-law has been mentioned by the Pws in their evidence deposed in court. It appears that due to family related matter an altercation took place between her, her mother-in-law and the accused person. However, the matter is amicably settled between them and they do not want to proceed with this case and they have no objection if the accused person acquitted from this case.

15. 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.

16. 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 Rakesh Das is not held guilty of the offence punishable u/s 341/294/352 of the I.P.C. and accordingly, he is acquitted and set at liberty forthwith.

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

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

19. Given under my hand and seal of this court on this 09th day of September, 2022.

SMTI NADIA REHMAN, LLM, 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	Archana Das	Informant
PW-2	Prativa Das	Related witness

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	Ejahaar
2	Ext.P-1(1)/PW-1	Signature of PW-1

B. Defence : Nil

C. Court Exhibits: Nil

D. Material Objects: Nil

Smti. Nadia Rehman, LLM, AJS

J. M. 1ST CLASS, NALBARI.