

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,  
UDALGURI :: BTAD :: ASSAM.**

**G.R. CASE NO. 828 of 2019  
(PRC NO. 1085/2019)**

**Present: Sri Mridul Kumar Saikia.  
Chief Judicial Magistrate  
Udalguri, BTAD, Assam.**

**STATE**

**-VS-**

- 1) SRI ANJON KALITA &**
- 2) SRI DHANMONI KALITA**

**---Accused persons.**

**For the Prosecution : Mr. M. Khakhlary, Learned Addl. PP.**

**For the Defence : Mr. Samarjit Sharma, Miss N.  
Daimary and Mr Ranendra Basumatary,  
Learned Advocates.**

**Date of prosecution evidence : 07-03-2020.**

**Date of Argument & Judgment : 07-03-2020.**

**U/S- 323/294/341/34 IPC.**

**J U D G M E N T**

1. The case of the prosecution in brief is that on 24-08-2019, the complainant Sri Pradeep Kalita lodged an ejarah before the O/C interalia stating that on 22-08-2019, one Sri Arjun Kalita ridiculed his death father in front of the shop house of Sri Umesh Sharma. Pertaining to that incident, on 23-08-2019, his brother Harekrishna Kalita while met Sri Anjan Kalita wanted clarification from him. Then, Sri Anjan Kalita started assaulting him physically Sri Dhanmoni Kalita, the brother of Anjan Kalita also cooperated Sri Anjan Kalita in assaulting Sri Harekrishna Kalita and took away a gold chain from him. In the meantime, Smt. Monumati Kalita and Sunita Kalita,

the mother and sister-in-law of Anjan Kalita respectively tried to assault Harekrishna Kalita with knife. Being alone, Harekrishna Kalita to save himself tried to defend himself. Having heard the shouting of Harekrishna Kalita, one Sri Banomali Kalita and the complainant himself tried to intercept them to which one Sri Biren Kalita appeared in the spot and started to assault all of them.

2. On receipt of the ejahar to the effect aforesaid, the Officer-Charge of Udalguri Police Station registered Udalguri PS case no. 152 of 2019 U/S 294/323/379/506 I.P.C. and on completion of the investigation, the I/O submitted the charge sheet against the accused alleging commission of the offences U/S 323/294/341/34 I.P.C.
3. On the basis of the charge sheet, cognizance of offence was taken under Section **190 (1)(b)** of the Cr.PC. Necessary processes were issued for causing appearance of the accused before the court. Accordingly the accused appeared before the Court to answer the charges and on his appearance the necessary copies of all relevant papers and documents were furnished to the accused in compliance with the provisions of Section 207 CrPC. Finding a prima-facie case for commission of offence U/S 294/323/354 I.P.C., the charge U/S 294/323/354 I.P.C. were framed, read over and explained to him to which the accused pleaded not guilty and claimed to stand trial.
4. In order to bring home the charges, the prosecution examined as many as two witnesses in the form of:

PW 1 – Sri Pradeep Kalita(complainant) &

PW 2 – Sri Harekrishna kalita.

The prosecution has exhibited the following document in the form of :

Ext. 1 – Ejahar.

5. After recording the prosecution witness, the accused was examined U/S 313 Cr.P.C. The accused denied all the circumstances and pleaded his innocence. Further the accused declined to adduce any evidence in defence.

6. I have heard the argument put forward by the learned Additional P.P. and the learned advocate appearing for the accused. I have also carefully gone through the entire evidence available with the case record.
7. **POINTS FOR DETERMINATION OF THE CASE :** To ascertain the guilt of the accused person on the charges levelled against them, the following points sorted out for decision:
- I. Whether on 04-07-2019 at about 10 P.M. and preceding that day, the accused being the husband of the complainant Smt. Manika Baruah and father of his daughters, to the annoyance of them, abused them all by using indecent words at his residence at Sundardiya Patty under Udalguri Police Station?
  - II. Whether on the same day, time and place the accused voluntarily caused hurt to the complainant Smt. Manika Baruah and her daughters?
  - III. Whether on the same period and same place the accused used criminal force with intent to outrage the modesty of the complainant Smt. Manika Baruah?

**DISCUSSION, DECISION AND REASONS THEREOF:**

9. To decide the above points, let us scrutinize the evidence on record led by the prosecution in support of its case. PW-1 Sri Pradeep Kalita is the complainant of this case. He has stated that on 23-08-2019, at about 7.30 PM, pertaining to ridicule of the accused regarding the death of his father due to cancer, his brother had an altercation and scuffle with the accused to which family members of both the parties interfered and they portioned. Then, being emotional, he filed the case against the accused. Presently, they have no dispute and they are living peacefully and as the occurrence took place only due to misunderstanding, wherein none was injured, he do not want to proceed further with the case.
10. In cross-examination, PW 1 stated that she has no objection if the accused

get acquittal in the case.

11. After perusing the evidence of the complainant, it is clear that due to some tinny matters between them in their conjugal life, she lodged the ejahar against her husband on misunderstanding only. Except that, nothing was happened. Later on, the complainant herself expressed her unwillingness to proceed the case further against the accused and she has no objection, if the accused get acquittal from the charges. Further, from her version, we are of the opinion that presently they have no differences and both the parties are living peacefully. It appears that the instant case arose out of misunderstanding only as admitted by the complainant herself. Hence, we are of the opinion that the complainant no way incriminated the accused with the alleged offences. As PW 1 has deposed before the court voluntarily, the evidence of PW 1 is accepted.
12. Thus, from the above appraisal, appreciation of evidence on record, and the application of law, I find that the prosecution has failed to establish the offences U/S 294/323/354 I.P.C. against the accused person beyond all reasonable doubt. In the result, the accused is found not guilty U/S 294/323/354 I.P.C. Hence, the accused Sri Dilip Baruah is acquitted from the charges U/S 294/323/354 I.P.C. on benefit of doubt and he is set at liberty forthwith.
13. Bail bond shall remain in force for next 6 months as per provisions of Section 437 A CrPC.

Given under my hand and seal of this Court on this 4<sup>th</sup> day of October, 2019 at Udalguri, BTAD, Assam.

**Dictated and corrected by me:**

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate  
Udalguri, BTAD, Assam.

**(Mridul Kumar Saikia)**

Chief Judicial Magistrate  
Udalguri, BTAD, Assam.

**APPENDIX**

- A. Prosecution witnesses : PW 1 – Smt. Manika Baruah(complainant)
- B. Defence witness : Nil.
- C. Documents exhibited : Ext. 1 – Ejahar.

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate  
Udalguri, BTAD, Assam.

Typed and transcribed by me:

(Tulashi Dev Sarma/Stenographer)