

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

**G.R. CASE NO. 381 of 2019
(PRC NO. 540/19)**

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

STATE

-VS-

**1. MD. FAJAR ALI @ FAJAL HOQUE
2. MUSST. ALEKJAN NESSA**

.....Accused.

For the Prosecution : Mr. M. Khakhlari, Learned Addl. PP.

For the Defence : Mr. N. Islam, Learned Advocate.

Date of prosecution evidence : 13-03-2020.

Date of argument & Judgment : 13-03-2020.

U/S – 294/354/34 I.P.C.

J U D G M E N T

1. The victim of the case is Musst. Omisha Khatoon.
2. The case of the prosecution, in brief, is that, on 29-04-2019 at about 4 P.M. while the Musst. Omisha Khatoon was returning home bring her goat, the accused persons, without any rhyme or reason, abused her using indecent words, caught her hair on her way, caused hurt by assaulting right & left and even tried to outrage her modesty. Hence, the complainant, informing about the occurrence, lodged an ejahar on 30-04-2019 before the In-Charge, Sapmari Outpost with a prayer for taking necessary action.
3. On receipt of the ejahar to the effect aforesaid, the I/C Sapmari Outpost made

Sapmari OP GD Entry No. 490 dated 30-04-2019 and immediately forwarded the same to the Officer-in-Charge, Udalguri Police Station for registering a case under proper sections of law and to investigate the same. Accordingly, on receipt of the same, the Officer-in-Charge, Udalguri Police Station registered Udalguri PS case no. 75 of 2019 U/S 294/354/34 I.P.C. and on completion of investigation the I/O submitted the charge sheet against the accused persons namely (1) Md. Fajar Ali @ Fajal Hoque and (2) Musst. Alekjan Khatoon alleging commission of the offences U/S 294/354/34 I.P.C.

4. 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 persons before the court. Accordingly, both the accused appeared before the court to answer the charges levelled against them. 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 offences U/S 294/354/34 I.P.C., the charge U/S 294/354/34 I.P.C. were framed, read over and explained to the accused to which the accused persons pleaded not guilty and claimed to stand trial.
5. In order to bring home the charges, the prosecution examined only the complainant in the form of:

PW 1 Sri Musst. Omisha Khatoon.

6. After recording the prosecution witness the accused were examined U/S 313 Cr.P.C. All the incriminating circumstances which appeared in evidence against the accused were put to them for their explanation. The accused denied all the circumstances and pleaded their innocence. Further the accused declined to adduce evidence in defence.
7. 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.
8. **POINTS FOR DETERMINATION OF THE CASE :** To ascertain the guilt of the accused persons on the charges levelled against them, the following points are sorted out for decision in the present case:

(I) Whether on 29-04-2019 at village Loudong under Udalguri Police

Station the accused persons in furtherance of common intention abused the complainant Musst. Omisha Khatoon using indecent words?

(II) Whether on the same day, time and place the accused persons in furtherance of common intention assaulted or used criminal force with intent to outrage the modesty of the complainant?

DISCUSSION, DECISION AND REASONS THEREOF:

9. To decide the above points, let us make a scrutiny of the evidence led by the prosecution in support of its case. PW-1 Musst. Omisha Khatoon, who is the complainant of the case has stated in her deposition that the accused persons are their relatives and about eight months back, one day due to misunderstanding regarding their goat she had an altercation with the accused persons and on being emotional he lodged the case against them. Presently, they have no differences and are living peacefully. she expressed her unwillingness to proceed further with the case against the accused persons. She stated that she lodged the ejahar by putting her thumb impression thereon.
10. In cross-examination, PW 1 stated that she has no objection if the accused persons get acquitted from the case.
11. From the testimonies of the witness, it is apparently clear that the complainant lodged the ejahar against the accused persons due to misunderstanding only as admitted by the complainant himself. Further, she clearly expressed that presently, they are living peacefully with the accused persons and do not want to proceed further with the case and have no objection, if accused persons get acquitted from the charges. Due to misunderstanding only, the complainant, on being emotional, lodged the ejahar against the accused persons. It is found that the complainant noway incriminated the accused persons with the alleged offences. As the complainant 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 offence U/S 294/354/34 I.P.C. against the accused persons beyond all reasonable

doubt. In the result, both the accused are not found guilty U/S 294/354/34 I.P.C. Hence, the accused (1) Md. Fajar Ali @ Fajal Hoque and (2) Musst. Alekjan Khatoon are acquitted from the charges U/S 294/354/34 I.P.C. and they are set at liberty forthwith.

13. The bail bonds shall remain in force for another six months as per provisions of Section 437(A) Cr.P.C.

Given under the hand and seal of this Court on this 13th day of March, 2020 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 Musst. Omisha Khatoon (complainant)

B. Defence witness : Nil.

C. Documents exhibited : Nil.

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

Typed and transcribed by me:

(Tulashi Dev Sarma/Stenographer)