

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

**G.R. CASE NO. 1308 of 2019  
(PRC NO. 371/20)**

**U/S- 294/323 I.P.C.**

**Present: Smti. Ranjita Agarwalla,  
Chief Judicial Magistrate,  
Udalguri, Assam.**

**STATE**

**-VS-**

**MD. ASHIKUL ISLAM**

**----- Accused.**

**For the Prosecution : Mr. M. Khakhlari, Ld. Addl. P.P.**

**For the Defence : Mr. Manoj Deka, Ld. Advocate.**

**Date of Prosecution Evidence : 16-12-2021.**

**Date of Argument & Judgment : 16-12-2021.**

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

1. The brief facts of the prosecution case are that on 08-12-2019 a written ejahar was lodged by one Musst. Rufia Khatoon, W/o Md. Abed Ali, a resident of village Chubura-chuburi under Orang Police Station, district-Udalguri, Assam at Orang Police Station stating inter-alia that on 04-12-2019 at about 6 PM while she was busy at paddy field, the accused beat her minor child namely Md. Rafiqul Islam with a goad while he was playing with threshing straw. After returning home while she asked the accused about the incident, the accused scolded in slang language, brought a goad from his house and assaulted her too. Resultantly, she and her minor son sustained injuries in various parts of their bodies. It is also mentioned that the delay in lodging the ejahar was caused as the victim waited for amicable settlement of the matter as

suggested by the villagers in the village meeting. Hence, prayed for taking necessary action as per law.

2. After receiving the ejahar to the effect aforesaid, the Officer-in-Charge, Orang Police Station registered a police case vide Orang PS case No. 120/2019 U/S 294/325 I.P.C. and on completion of the investigation, the Investigating Officer submitted the charge sheet against the accused Md. Ashikul Islam alleging commission of offences U/S 294/323 I.P.C.
3. On the basis of the charge sheet, cognizance of offence was taken under Section **190 (1)(b)** of the Cr.P.C. The processes were issued for appearance of the accused person before the Court. Accordingly, the accused person appeared before the Court and on his appearance necessary copies of all relevant papers and documents were furnished to him. Finding a prima-facie case for commission of offences, the particulars of offences U/S 294/323 I.P.C. were explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
4. In order to bring home the case, the prosecution examined as many as two(2) witnesses in the form of:

**PW 1 Musst. Rufiya Khatoon (Informant) and  
PW 2 Md. Rafiqul Islam.**

5. After recording the prosecution witnesses the accused person is exempted from recording his statement U/S 313 Cr.P.C. as not implicated. 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 person. I have also carefully gone through the entire evidence available with the case record.
7. **POINTS FOR DETERMINATION:**

(I) Whether on 04-12-2019 at about 6 P.M. at village Chubura-chuburi under Orang Police Station, district-Udalguri, Assam the accused voluntarily caused hurt to the informant Musst. Rufiya Khatoon and her minor child Md. Rafiqul Islam and thereby committed an offence punishable U/S 323 I.P.C.?

(II) Whether on the same day at the same time and same place the accused abused the said informant and her son uttering obscene

words which caused annoyance to the others and thereby committed an offence punishable U/S 294 I.P.C.?

**DISCUSSION, DECISION AND REASONS THEREOF:**

- 8.** Let us go through the evidences lead by prosecution side. The star witness **PW 1 Musst. Rufiya Khatoon** who is the informant of the case has deposed that the accused is her nephew. One year ago one afternoon, when she went to the paddy field, she heard that the accused quarreled with her son for which she had an altercation with the accused wherein slight jostling also took place amongst them and as such, she lodged the instant case against the accused person out of anger by putting her thumb impression.
- 9.** **PW 2 Md. Rafiqul Islam** one alleged victim of the case deposed in his evidence that the informant of the case is his mother and the accused is related elder brother. About two years back he had an altercation with the accused person relating to their domestic affairs and he apprised the matter to his mother (PW1) and thereby his mother and the accused person engaged in an altercation and jostling. Subsequently, his mother (PW1) lodged this instant case against the accused person. But the same has been negotiated.
- 10.** Now, from the materials available in the case record it reveals that **PW 1 Musst. Rufiya Khatoon**, the informant of this case stated in her evidence that the accused is her nephew and one year back one afternoon she heard that the accused quarreled with her son and regarding the matter she had an altercation with the accused and in that process slight jostle also took place and as such, she lodged the case against the accused out of her anger only. Although in this case the particulars of offences **U/S 294/323** of **I.P.C.** were stated and explained to the accused person, but the informant (**PW1**) who is the star witness of the case, has disclosed in her examination-in-chief that an altercation and slight jostling took place between them regarding the quarrel between the accused and her son. In her cross examination, **PW 1** stated that the case was lodged due to misunderstanding only and the same has been sorted out and she does not want to proceed further with the case. She has no grievances against the accused person if he gets acquittal from the case. She clearly stated that the accused neither uttered any obscene words not assaulted them. Moreover, **PW 2** the other alleged victim of the case also

stated in his evidence that the accused is his related elder brother, on the day of occurrence he had an altercation with the accused relating to some domestic affairs which he apprised to his mother and then his mother(**PW1**) and the accused person engaged in an altercation and jostling which is not debarred by the prosecution. But he expressed that though his mother lodged this case against the accused person, subsequently, they have already settled the matter. As such, the accused person caused hurt to the informant and his son (**PW 1 & PW 2**) does not arise here.

- 11.** Pertaining to the offence **U/S 294 IPC** i.e., uttering obscene words, **PW1** in her cross-examination negated the same and PW 2 is also mum in this regard. Although, **PW1** in her **FIR** stated that the accused scolded her and her son with slang language, but she has not mentioned about the said scoldings by the accused person. Rather, in cross examination she clearly averred that the accused neither uttered any obscene word nor assaulted them.
- 12.** And as such, considering the above aspects, I come to the conclusion that the prosecution has failed to prove the case against the accused person. The prosecution has miserably failed to establish the case U/S 294/323 I.P.C. against the accused person. Hence, the accused is not found guilty U/S 294/323 I.P.C.

**O R D E R**

- 13.** In the result, the accused person namely Md. Ashikul Islam is acquitted from the offences U/S 294/323 I.P.C. and he is set at liberty forthwith.

Bail bond shall remain in force for next 6 months as per provisions of Section 437(A) Cr.P.C.

Given under my hand and seal of this Court on this 16<sup>th</sup> day of December, 2021 at Udalguri, Assam.

**Dictated and corrected by me:**

**(Ranjita Agarwalla)**  
Chief Judicial Magistrate.  
Udalguri, Assam.

**(Ranjita Agarwalla)**  
Chief Judicial Magistrate  
Udalguri, Assam.

**APPENDIX**

- A. Prosecution witnesses : **PW 1 Musst. Rufiya Khatoon (Informant)**  
**PW 2 Md. Rafiqul Islam.**
- B. Defence witness : Nil.
- C. Documents exhibited : Nil.

**(Ranjita Agarwalla)**  
Chief Judicial Magistrate  
Udalguri, Assam.