

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

**G.R. CASE NO. 118 of 2019  
(PRC NO. 259/19)**

**U/S- 354(A)/323/294/506 I.P.C.**

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

**STATE**

**-VS-**

**MD. NUR SALAM**

**----- Accused.**

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

**For the Defence : Mr. R. Basumatary and Miss. N. Daimary,  
Ld. Advocates.**

**Date of Prosecution Evidence : 31-07-19, 21-12-19, 23-12-2021.**

**Date of Argument & Judgment : 31-12-2021.**

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

1. The brief facts of the prosecution case are that on 07-02-2019 a written ejahar was lodged at Lalpool outpost by one Md. Sajahan Ali, S/o Tasar Ali, a resident of Bherbhreibil, under Dhula Police Station of Darrang District, Assam stating inter-alia that on the aforesaid day at about 1:30 P.M. when they were returning from Rowtabagan towards their residence at Besimari in a A/C passenger vehicle, near Lalpool SSB Camp the accused selling peanuts and under the influence of liquor repeatedly caught hold of the hands of his wife and with a malign intention misbehaving his wife, thereby, the driver of the vehicle stopped his vehicle and tried to drop him. Thereby, the accused gave him a fist blow which fell on his face for

which he sustained injury badly by toring his cheeks. Though the accused tried to flee away but the jawans of SSB and the local public nabbed him and handed over to police. Hence, prayed for taking necessary action as per law.

2. After receiving the ejahar to the effect aforesaid, the I/C, Lalpool outpost made a GD Entry bearing Lalpool OP GD Entry No. 96 dated 07-02-2019 and forwarded the same to the Officer-in-Charge, Rowta Police Station for registering a case under proper sections of law and accordingly, after receiving the same the Officer-in-Charge, Rowta Police Station registered a police case vide Rowta PS case No. 20/2019 U/S 354/294/323 I.P.C. and on completion of the investigation, the Investigating Officer submitted the charge sheet against the accused Md. Nur Salam alleging commission of offences U/S 354(A)/323/294/506 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. The processes were issued for appearance of the accused person before the Court. Accordingly, the accused 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 offence, the charges U/S 354(A)/323/294/506 I.P.C. were framed, read over and explained to the accused to which he pleaded not guilty and claimed to stand trial.
4. In order to bring home the case, the prosecution examined four(4) witnesses in the form of:

**PW 1 Md. Ibrahim Ali (Informant)**

**PW 2 Md. Suruj Ali**

**PW 3 Md. Shahjahan Ali and**

**PW 4 Musst. Joyful Nessa.**

5. After recording the prosecution witnesses the accused person is examined U/S 313 Cr.P.C. All the incriminating circumstances which appeared in evidence against the accused were put to him for his explanation. 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 person. I have also carefully gone through the entire evidence available with the case record.

**7. POINTS FOR DETERMINATION:**

- (I) Whether on 07-02-2019 at about 1:30 P.M. near Lalpool SSB Camp under Rowta Police Station, Udalguri, the accused made physical contact and advanced involving unwelcome and explicit sexual overtures by using criminal force to Musst. Joyful Begum and thereby committed an offence punishable U/S 354(A) I.P.C.?
- (II) Whether on the same day, same time and place the accused abused the informant Md. Shahjahan Ali and his wife by uttering some indecent words which caused annoyance to others and thereby committed an offence punishable U/S 294 I.P.C.?
- (III) Whether on the same day, same time and place the accused voluntarily caused hurt to the informant and thereby committed an offence punishable U/S 323 I.P.C.?
- (IV) Whether on the same day, same time and place the accused committed criminal intimidation by threatening to the informant with dire consequences and thereby committed an offence punishable U/S 506 I.P.C.?

**DISCUSSION, DECISION AND REASONS THEREOF:**

Let us have a glimpse on the evidences lead by prosecution side.

- 8. The witness **PW 1 Md. Ibrahim Ali**, deposed that he does not know the informant as well as the accused. Five months back one day at about 2 P.M. while he was going by driving his four wheeler passenger vehicle from Rowta garden to Kharupetia one couple boarded into his vehicle from Bhalukmari and the accused from Rowta Chariali. After a little while, the male person of the couple slapped the accused alleging that why he touched the body of his wife. As a quarrel took place inside his vehicle, as such, at Lalpool he dropped all the passengers. Getting down from the vehicle the accused immediately gave a fist blow to the male person of the couple. As the quarrel was going on, the police from Lalpool Outpost came and nabbed the accused person. Thereafter, what happened he did not know.
- 9. **PW 2 Md. Suruj Ali** deposed that he knew the informant, however did not know the accused. In this current year, one day at about 11:30 A.M. while he was at

Lalpool chowk, some people were running towards SSB camp. Then he also went there and found one person nabbed by police. He came to know from the public that the said youth touched the body of a lady.

- 10. PW 3 Md. Shahjahan Ali**, the informant of this case deposed that he knows the accused. Two years back he along with his wife went to Rowta garden to meet one of their relatives and the accused also boarded at Rowta Chariali on the same vehicle. He had an altercation with the accused regarding misbehavior met with his wife. They had some jostling too and in that jostling he sustained minor injuries by way of falling. Due to anger, he lodged this case against the accused by putting his thumb impression and handed over the accused to the SSB jawans.
- 11. PW 4 Musst. Joyful Nessa** stated in her deposition that the informant is her husband and she also know the accused. Two years back when they were going to Rowta tea estate on a Magic vehicle the accused was also there. Her husband and the accused had an altercation and jostling and in that jostling her husband sustained minor injuries by way of falling. As such, her husband lodged this instant case out of anger and handed over the accused to police personnel.
- 12.** Now, from the materials available in the case record it reveals that although this case was charge-sheeted **U/S 354(A)/323/294/506 of I.P.C.** and accordingly the charges were framed, read over and explained to the accused person, but the vital witnesses i.e. the **PW 3 and PW 4** the informant and his wife in their evidences are totally silent regarding commission of any of the alleged offences by the accused. The independent witnesses i.e. **PW 1 & PW 2** are not eye witnesses and they too stated in their cross-examinations that they did not see the occurrence or did not know the reason as to why there was a quarrel amongst them. It is clear from the testimonies of PW 3 & PW 4 that the accused neither outraged the modesty of the woman nor intended to do the same. For the offence committed **U/S 354(A) I.P.C.** which deals:

**“Sexual harassment and punishment for Sexual Harassment.”**

A man committing any of the following acts—

1. physical contact and advances involving unwelcome and explicit sexual overtures; or
2. a demand or request for sexual favours; or
3. showing pornography against the will of a woman; or

4. making sexually coloured remarks, shall be guilty of the offence of sexual harassment;

are the ingredients of offences fall within the purview of this section.

13. From the evidences of the star witnesses i.e. **PW 3 & PW 4** they are totally mum regarding any of the above cited ingredients. Rather, both the PWs have stated in their cross-examinations that due to misunderstanding only this instant case was lodged. The alleged victim of this i.e. **PW 4** has apparently stated in her cross-examination the accused neither outraged her modesty nor intended to do so. Her version was supported by the other star witness i.e. **PW 3** stating that the accused did not outrage the modesty of his wife. None of the PWs have whispered about any of the ingredients of the above committed by the accused to the alleged victim i.e. PW 4 at the time of incident. As such, Section **354(A) I.P.C.** doesnot attract in this context.
14. Moving to offence **U/S 323 I.P.C.** the PWs have not uttered anything about any kind of assault or hurt committed by the accused person at them. To attract the offence **U/S 323 I.P.C.** the definition of hurt is defined in **Section 319 of Indian Panel Code** wherein pain is one of the ingredients of such hurt. But none of them have whispered a single word that the accused caused any hurt to them. Rather, PW 3 the informant stated that he sustained minor injury by way of falling only and PW 4 also stated in the same tune as of PW 3. Although, **PW 3** in the **FIR** stated that the accused person gave him a fist blow but he is totally silent about the same in his evidence.
15. Likewise, utterance of any filthy language by the accused person at the relevant time is nowhere established by the prosecution. All the PWs are silent in this context. Although, **PW3** in his **FIR** stated that the accused misbehaved them, but he has not mentioned about the said misbehavior by the accused person. All the PWs are mum about utterance of any obscene words or filthy language by the accused person at that relevant point of time. As such, it is found that the offence U/S 294 I.P.C. is fruitless herein.
16. In regard to the offence **U/S 506 I.P.C.** the informant as well as other PWs are totally silent in their examination-in-chief as well as cross-examination too. The ejahar is also quite silent in this context. None of the witnesses have whispered

anything about commission of criminal intimidation by the accused by threatening to the informant with dire consequences. Thus, although the ejahar was lodged in anger and out of misunderstanding only, but the same has been sorted out and **PW 3 & PW 4** in cross examination clearly stated that they do not want to proceed further with the case and have no grievances against the accused if he gets acquittal from the case. Considering the above aspects, I come to the conclusion that the prosecution has failed to prove the case against the accused persons

- 17.** From the above discussion, I find that the prosecution has miserably failed to establish the case U/S 354(A)/323/294/506 I.P.C. against the accused person. Hence, the accused is not found guilty U/S 354(A)/323/294/506 I.P.C.

**O R D E R**

- 18.** In the result, the accused person namely Md. Nur Salam is acquitted from the offences **U/S 354(A)/323/294/506 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 31<sup>st</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 Md. Ibrahim Ali (Informant)**  
**PW 2 Md. Suruj Ali**  
**PW 3 Md. Shahjahan Ali and**  
**PW 4 Musst. Joyful Nessa.**
- B. Defence witness : Nil.
- C. Documents exhibited : Nil.

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