

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA:**

**TINSUKIA**

**G.R. CASE NO: 446 OF 2016**

**U/ Sec 447/323/294 OF IPC**

STATE OF ASSAM

..... PROSECUTOR

**-Vs.-**

SRI PRAFULLA BORGOHAIN

S/O: LATE GENEDHAR BORGOHAIN

ADDRESS: KARPUNGPULI

P.S.: LEKHAPANI, DIST: TINSUKIA, ASSAM

.....ACCUSED

**PRESENT: SALEH AHAMMAD, LL.M. AJS**  
**SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA,**

**TINSUKIA**

FOR THE STATE: Mr. BAPA PURU KASHYTA, LEARNED ASST.PP

FOR THE ACCUSED: MISS MANJU UPADHAYAYA, LEARNED DEFENCE COUNSEL

OFFENCE EXPLAINED ON: 20-12-18

EVIDENCE RECORDED ON: 11-07-19

ARGUMENT HEARD ON: 11-07-19

JUDGMENT DELIVERED ON: 26-07-19

## **JUDGMENT:**

1. The genesis of this case had its roots with the lodging of First Information Report (in short as F.I.R) wherein the informant has alleged that on 05/07/16 at about 8:30 P.M. after having his dinner he was having a talk with one BINUD and at that time it was the accused who came to his house and without any reason started quarreling with them. It was the informant who had dragged him out of the house and thereafter the accused came with his son namely KARKEBOR GOHAIN who came with sticks and sharp pointed objects in their hands and they approached the courtyard of the informant. The accused used abusive language. When he went to his courtyard the accused and his son had assaulted him which led to grievous injuries. The informant lodged the FIR. The criminal law was set in motion with the lodging of the FIR.
2. In this case the O/C, LEKHAPANI PS registered as LEKHAPANI PS case No. 81/16 U/sec 447/294/325/34 of IPC and the case was entrusted to SI PULAK KUMAR for investigation and finally after completion of investigation the charge-sheet was submitted by him against the accused person U/sec 447/323/294 of IPC.
3. In this case the accused person appeared before the court and he was allowed to go on bail by my learned Predecessor and as per section 207 of CrPC & the offences U/sec 447/323/294 of IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried. In this case the prosecution has adduced as many as one PW to prove the case. In this case the statement of the accused person is hereby dispensed with. The defence does not adduce any DWs from their side.
4. I have heard arguments of the learned defence counsel and the learned Asst. P.P. I have perused the evidence on record and scrutinized the evidence on record.
5. After hearing both sides the following are determined point of determination.

### **POINT OF DETERMINATION**

#### **POINT FOR DETERMINATION NO.1:**

***Whether the accused person on 05/07/16 at about 8:30 P.M. had committed criminal trespass by entering into the house of the informant and thereby unlawfully remained there with an intent to commit an offence and thereby committed an offence punishable u/sec 447 of IPC?***

#### **POINT FOR DETERMINATION NO.2:**

***Whether the accused person had used slang or abusive words in a public***

***place or near a public place and thereby committed an offence punishable u/sec 294 of IPC?***

**POINT FOR DETERMINATION NO.3:**

***Whether the accused person at the same time and place had voluntarily caused hurt to informant and thereby committed an offence punishable u/sec 323 of IPC?***

**Discussion, Decision and Reasons there on:**

**For the sake of convenience all the points are clubbed together:**

6. PW1 in his evidence has deposed that he is the informant. He can recognize the accused person. There was a quarrel which took place. Now the matter has been amicably settled between them. He do not want to proceed with this case. He had sustained some injuries and he had undergone treatment. Ext.1 is the FIR, Ext.1(1) is his signature.
7. In his cross examination he has stated that he has no objection if the accused person is acquitted from this case.

***I have heard the arguments of the learned Asst. PP & the learned defence counsel.***

8. From the perusal of the evidence on record, I find that the complainant did not support the case of prosecution. No independent witness was examined by the prosecution side. PW1 i.e. informant cum victim in his evidence has stated that the dispute has been amicably settled between them. He doesn't want to proceed with this case.
9. In the light of the above discussion & reasons, I am of the opinion that the prosecution has failed to prove the case against the accused person beyond reasonable doubt. Hence, the accused person deserves to be acquitted of the offences leveled against him.

**ORDER**

***In view of the above discussions and reasons it is held that the prosecution has failed to prove the offences leveled against the accused person & as such the accused person is acquitted of the offences leveled against him under section 447/323/294 of IPC and he is thereby set at liberty.***

**Make necessary entry in the judgment register.**

**Given under my hand and seal of this court on this the 26<sup>th</sup> day of JULY, 2019 at MARGHERITA COURT.**

**SALEH AHAMMAD**  
**SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),**  
**MARGHERITA, TINSUKIA**

**APPENDIX:**

**WITNESSES FROM THE PROSECUTION SIDE:**

PW1: BHABESH TAYE

**WITNESSES FROM THE DEFENCE SIDE: NIL**

**PROSECUTION EXHIBITS:**

EXT 1 IS THE FIR

EX1 (1) IS THE SIGNATURE PW-1

**DEFENCE EXHIBITS: NIL**

**SALEH AHAMMAD**  
**SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),**  
**MARGHERITA, TINSUKIA**