

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIGAON**

**GR 3275 of 2016**

**U/S 447/323 of IPC**

**State**

**Vs**

**Musstt. Nazmin Faruki**

**.....Accused Person**

**Present: A. Shravan, A.J.S.**

Evidence recorded on : 18-06-2019  
Arguments heard on : 18-06-2019  
Judgment delivered on : 18-06-2019

For the Prosecution : Assistant Public Prosecutor, L. Gohain.

For the Defence : Learned Counsel, Mr. Muslehul Islam.

**JUDGMENT**

**1.** The case of the prosecution in brief is that the informant, Miss Majida Begum lodged an *ejahar* before Mikirbheta P.S. stating *inter alia* that on 15.12.2016 at about 3 p.m. the accused persons wrongfully trespassed into her house, dragged her by pulling her hair, slapped her, inflicted fist blows and severely injured her and also tore her clothes to outrage her modesty. Hence, the case.

**2.** On receipt of the *ejahar*, the Officer in Charge of Mikirbheta Police Station registered Mikirbheta P.S. Case No.423/2016 under sections 447/325/354/34 of Indian Penal Code. The police after investigation submitted charge sheet against the accused, Miss Nazmin Faruki under sections 447/323 of I.P.C.

**3.** On appearance of the accused person, copies were furnished to her under section 207 of Cr.P.C. and after hearing and perusal and on finding prima facie materials u/s 447/323 of I.P.C., against the accused person, the offences

are explained to the accused person to which she pleaded not guilty and claimed to be tried.

4. The prosecution side to prove its case examined the informant, Miss Majida Begum as P.W.-1. The statement of the accused person under section 313 of Cr.P.C. was not recorded due to the absence of incriminating materials against her.

5. I have heard both the learned Assistant Public Prosecutor and the learned counsel for the accused person.

6. **POINTS FOR DETERMINATION:-**

*(i) Whether the accused person criminally trespassed into the house of the informant/victim and thereby committed an offence u/s 447 of IPC?*

*(ii) Whether the accused person voluntarily caused hurt to the informant/victim and thereby committed an offence u/s 323 of IPC?*

**DISCUSSIONS, DECISIONS AND REASONS THEREOF:-**

7. In the course of the evidence adduced by the prosecution, it emerged that the informant, Miss Majida Begum, who was examined as PW-1 did not support the prosecution story. She stated that there was a minor altercation between the accused person and herself and the matter has already been reconciled with the accused person. Further, stated that she has no objection if the accused person is acquitted of the case.

8. From the evidence of the prosecution witness, it appears that the informant is not inclined to prosecute the accused person. It has become apparent that there must have been some minor altercation between the informant/victim and the accused person. However, the same appears to have been resolved. Thus, from the little evidence that has been brought before this court in the form of the statements made by the informant/victim, it is seen that no offence has been made out against the accused person under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused person of any offence.

**ORDER**

Considering the discussions made above and after all deliberations, it can be safely presumed that the prosecution has failed to drive home the guilt of the accused person. **Hence, the accused, Musstt. Nazmin Faruki is acquitted of the offences under sections, 447/323 of the Indian Penal Code and set her at liberty forthwith.**

Her Bail bonds are extended for a period of 6 (Six) months as per Section 437 A, Criminal Procedure Code.

Given in my hand and under the seal of this court on this 18<sup>th</sup> day of June, 2019.

Typed by Me:

Ayushree Shravan  
Judicial Magistrate First Class, Morigaon

## **APPENDIX**

Prosecution Witnesses:

PW-1: Miss Majida Begum.

Defence Witnesses:

None.

Prosecution Exhibits:

Ext.1:- *ejahar*

Defence Exhibits:

None.

**Judicial Magistrate First Class, Morigaon**