

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIOGAON, ASSAM.**

**PRC Case No. 690/18**

**U/S 294/341/323/34 IPC**

**STATE OF ASSAM**

**-VS-**

**1. MD. HASMAT ALI, S/O LT. AKASH ALI.**

**2. MD. ABADUL HOQUE, S/O MD. HASMAT ALI.**

**BOTH R/O GOROIMARI, P.S. LAHARIGHAT.**

**DIST. MORIGAON, ASSAM.**

**..... ACCUSED PERSONS.**

**PRESENT: -**

**SMTI. ANAMIKA BARMAN, LL.M., A.J.S.**

**JUDICIAL MAGISTRATE FIRST CLASS**

**MORIGAON, ASSAM.**

**FOR THE STATE: -**

**MR. M. ISLAM, LEARNED A.P.P.**

**FOR THE ACCUSED: -**

**MR. N. U. AHMED & MISS S. SHAH, LEARNED  
ADVOCATES.**

**EVIDENCE RECORDED ON: - 31.10.2019.**

**ARGUMENT HEARD ON: - 31.10.2019.**

**JUDGMENT DELIVERED ON: - 31.10.2019.**

**JUDGMENT**

1. The brief of the prosecution story is that one Md. Yasin Ali lodged an FIR before the Officer-in-Charge, Borchala Police Outpost on 22.12.2017 alleging inter alia on that day itself while the informant was waiting on his cycle at Goroimari Chariali with his 40 (forty) kg of hen to go to Morigaon, the accused Md. Abadul Hoque started arguing with the informant for no valid reason. At that moment, the accused Md. Hasmat Ali came there and both the accused wrongfully restrained the informant and pushed him onto a

post thereby causing grievous injuries on head and hands of the informant. At the time of the incident, there was Rs.10,000/-(Rupees Ten Thousand only) in the pocket of the informant which went missing. Hence, the case.

2. On receipt of the ejahar, Borchala Police Outpost registered the complaint as GDE No. 345 dated 22.12.17 and forwarded the same to the Laharighat P.S. On receipt of the ejahar, Laharighat P.S. registered the case as Laharighat P.S. case No. 370/17 u/s 294/341/325/34 of the IPC and the case was investigated into. On completion of the investigation, I/O filed charge-sheet against the accused persons Md. Hasmat Ali and Md. Abadul Hoque u/s 294/341/323/34 of the IPC.

3. On receipt of summons the accused persons appeared before the Court. Copies of relevant documents were furnished to the accused person under section 207 of Cr. P.C. On finding sufficient prima facie materials to presume that the accused persons had committed offence punishable u/s 294/341/323/34 of the IPC, particulars of offence under the said sections were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. In support of its case, prosecution examined only 1 (one) witnesses. In view of the evidence recorded, the Ld. APP verbally prayed to close PWs as the prosecution declined to adduce further evidence. After closure of prosecution evidence, statement u/s 313 of Cr.P.C. has been dispensed with as found not necessary. Defence declined to adduce evidence. Heard the arguments put forward by the learned Counsels for both the sides as well as gone through the evidences available on record.

5. **Point for determination.**

(I) *Whether on 22.12.2017, at Goroimari Chariali, the accused persons, in furtherance of their common intention, uttered obscene words at or near a public place, and hence committed an offence u/s 294/34 of IPC?*

(II) *Whether on the same date, time and place, the accused persons, in furtherance of their common intention wrongfully restrained the informant/victim Md. Yasin Ali, and hence committed an offence u/s 341/34 of IPC?*

(III) *Whether on the same date, time and place, the accused persons, in furtherance of their common intention, voluntarily caused hurt to the informant/victim, and hence committed an offence u/s 323/34 IPC?*

**Discussion, Decision and Reasons thereof:-**

6. In this case prosecution examined only 1 (one) witnesses. The informant/victim Md. Yasin Ali was examined as PW-1 to prove the charges against the accused persons.

7. Before going to decide the points for determination, let me describe the evidence in brief. *In his examination-in-chief* PW-1/informant/victim, Md. Yasin Ali, deposed that he is the informant and he knows the accused persons standing on the dock as they are his family members. He further deposed that he had filed this case about two and half years prior to the date of his deposition. On the date of the incident he had a verbal altercation with the accused persons over some family matters and he filed the instant case in that misunderstanding.

8. *During his cross-examination*, PW-1 stated that he does not have any objection if the accused persons are acquitted.

9. On perusal of the evidences recorded by the prosecution side, it appears that the PW-1/informant/victim is not willing to proceed with the case further and he stated that the case was filed out of some misunderstanding. He does not have any objection if the accused persons are acquitted.

10. In view of the evidence on record, the prosecution side declined to adduce further evidence. This being so there is nothing in the evidence of prosecution warranting conviction of the accused persons u/s 294/341/323/34 IPC as the evidence of the prosecution witness is found to be not acceptable and reliable.

11. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 294/341/323/34 IPC against the accused persons beyond reasonable doubt. Accordingly, the accused persons are found not guilty of the offence charged against them and are acquitted.

**ORDER**

12. In the light of the above decision, the accused persons are acquitted of the charge under section 294/341/323/34 of IPC and set at liberty forthwith.

13. The bail bonds of the accused persons are extended for a period of 6 (six) months as per section 437-A, Cr.P.C.

14. The judgment is delivered in the open Court in presence of the accused persons and their learned Counsel.

15. Given under my hand & seal of this Court and delivered in the open Court on this 31<sup>st</sup> day of October, 2019.

Dictated and corrected by me

(Miss. Anamika Barman)

JMFC, Morigaon

**(ANAMIKA BARMAN)**

**Judicial Magistrate First Class**

**Morigaon, Assam**

**APPENDIX**

**PROSECUTION WITNESSES:**

**1. P.W.-1, MD. YASIN ALI.**

**DEFENCE WITNESSES:**

**NIL**

**EXHIBITED DOCUMENTS:**

**NIL**

**(ANAMIKA BARMAN)  
JMFC, Morigaon  
Assam**