

**COURT OF MUNSIFF NO-4 cum JUDICIAL MAGISTRATE FIRST CLASS
KAMRUP (M)**

G.R CASE 1070 of 2014

U/S 294/323/34 of IPC

STATE

V

DEEPAK PRASAD & ORS.....ACCUSED

PRESENT: - SUNDEEP KASHYAP DAS, A.J.S

JUDICIAL MAGISTRATE FIRST CLASS, KAMRUP (M)

FOR THE PROSECUTION:

Smti JITUMONI TAMULI

.....A.P.P. FOR THE STATE

FOR THE DEFENCE

A. AHMED, J. DAS, P. DEKA

.....ADVOCATE FOR THE ACCUSED

EVIDENCE RECORDED ON: - 06.03.2017

ARGUMENTS HEARD ON: - 06.03.2017

JUDGMENT DELIVERED ON: -06.03.2017

JUDGMENT

BRIEF FACTS OF PROSECUTION'S CASE

1. On 31.01.2014, the informant **BAJRANG MUKHIYA** had lodged an F.I.R stating inter alia that on the said date at around 10:00 p.m. the accused, Sri **DEEPAK PRASAD** abused his family with filthy language after getting drunk. Subsequently, when he along with his brother namely Sri **LAXMAN MUKHIYA** went to resist him, the accused persons started assaulting them. As such, they sustained injuries. Hence, the informant filed this instant case for taking necessary action.

INVESTIGATION

2. On receipt of *ejahar*, the police registered a case P.S 29/14. After completion of investigation, the police submitted a charge-sheet for the offence under section 294/323/34 of Indian Penal Code (hereinafter referred to as 'IPC') against the accused persons namely **DEEPAK PRASAD and MUKESH PRASAD**

APPEARANCE OF THE ACCUSED PERSONS

3. The accused persons were called upon to enter trial and upon their appearance, copies of relevant documents were furnished to them u/s 207 CrPC.

SUBSTANCE OF ACCUSATION AGAINST THE ACCUSED PERSONS

4. Considering the relevant documents and hearing both parties, substance of accusation u/s 294/323/34 of IPC have been stated to the accused persons to which they pleaded not guilty and claimed to be tried.

WITNESSES EXAMINED and DOCUMENTS EXHIBITED

5. The prosecution examined (2) witnesses and exhibited no 1 (one) documents.

EXAMINATION OF THE ACCUSED PERSONS

6. The examination of the accused persons u/s 313 of Cr.P.C have been dispensed with as there were no incriminating materials against them

POINTS FOR DETERMINATION

a. *Whether, on 31st day of January, 2014, the accused persons namely Sri **DEEPAK PRASAD** and **MUKESH PRASAD**, in furtherance of their common intention, voluntarily caused hurt to informant, Sri **BAJRANG MUKHIYA** and his brother namely Sri **LAXMAN MUKHIYA** and thereby committed an offence punishable u/s 323/34 of IPC?*

b. *Whether on the said date and time, the said accused persons, in furtherance of common intention, uttered any word which was obscene and it caused annoyance to the informant and her family members and committed an offence punishable u/s 294/34 IPC?*

DISCUSSION, DECISIONS AND REASONS THEREOF

EVIDENCE FOR PROSECUTION

EVIDENCE OF P.W.1 [THE INFORMANT cum VICTIM]

7. P.W.1, Sri **BAJRANG MUKHIYA** has stated that he is the informant of this case and that he has lodged this case against the accused persons. At present, he has mutually settled the matter with the accused persons

and does not want to pursue the case. Ext-1 is the F.I.R; Ext-1 (1) is his signature.

EVIDENCE OF P.W.2 [VICTIM]

8. P.W.2, Sri **LAXMAN MUKHIYA** has stated that he knows the informant as he is his younger brother. He has mutually settled the matter with the accused persons.

9. The standard of proof in criminal law is to prove the guilt of the accused beyond reasonable doubt. Basic allegations against the accused reveals from the story of prosecution as stated above. Question arises whether prosecution has been able to discharge the burden? The answer is NO. The prosecution manage to examine the informant and victim. It has become apparent that there must have been some minor altercation between the informant and the accused persons. However, the same appears to have been resolved. From the evidence that has been brought on record, it is seen that no offence has been made out against the accused person under any section of law. Both parties are not at loggerheads anymore and further bear no animosity towards one another.

10. Situated thus, it is found that the prosecution has failed to implicate the accused persons of any offence.

DECISION: - *The points are decided in negative and goes in favour of the accused persons*

ORDER

In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused person **DEEPAK PRASAD** and **MUKESH PRASAD** have committed the offence under section **294/323/34** of IPC as alleged and as such the accused persons are acquitted of the charges under section **294/323/34** of IPC on benefit of doubt and they be set at liberty forthwith.

The bail bond of the accused persons shall remain in force for another six months from today.

This judgment is given under my hand and seal of this court on this 06th day of MARCH, 2017

The case is disposed of on contest.

SUNDEEP KASHYAP DAS

JUDICIAL MAGISTRATE FIRST CLASS

KAMRUP (M)

APPENDIX

LIST OF PROSECUTION WITNESS

PW1- Sri *BAJRANG MUKHIYA*

PW2- Sri *LAXMAN MUKHIYA*

LIST OF DEFENCE WITNESS

DW- NONE

LIST OF PROSECUTION EXHIBITS/DOCUMENTS

EXT-1- *EJAHAR*

LIST OF DEFENCE EXHIBITS/DOCUMENTS

NONE

SUNDEEP KASHYAP DAS

JUDICIAL MAGISTRATE FIRST CLASS

KAMRUP (M)