

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, LAKHIMPUR,  
NORTH LAKHIMPUR, ASSAM**

Present: Shri Narayan Kuri, AJS,  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur, Assam.

**G.R. 32/2018**

U/s 447/294/323, IPC

**State of Assam**

**-Vs-**

**Sri BhupenDeuri**

S/O: Late HarendraDeuri

R/O: KachikataDeuriGaon

P.S: Bihpuria

District: Lakhimpur, Assam

.....Accused person

Date of offence explanation	: 21.02.2018
Date of recording evidence	: 13.03.2019
Date of argument	: 09.04.2019
Date of judgment	: <b><u>09.04.2019</u></b>

**Advocates appeared in the case:-**

Sri Prasanta Dutta, Addl. P.P., for the State

Sri NabajyotiSaikia, Advocate, for the accused person

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

1. The prosecution case in brief, is that on 03.01.2018 informant Sri Bijoy Deuri lodged an FIR with the Officer-in-charge of Bihpuria Police Station alleging that at about 5:30 PM on 03.01.2018 accused persons Sri Bhupen Deuri and Sri Hakim Deuri entered into the house of the informant and uttered obscene words to him and his family members and also assaulted his father Sri Rajamon Deuri with stick and 'dao' causing grievous injuries on his face and head. Hence, the case.

2. The Officer-in-charge of Bihpuria Police Station, on receipt of the ejahar, registered a case vide Bihpuria P.S. Case No. 08/2018 under section 448/294/326/325/307/34 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 447/294/323 of the Indian Penal Code against accused person Sri Bhupen Deuri to stand trial in

the Court. The FIR-named accused person Sri Hakim Deuri was not sent up for trial.

3. On receipt of the charge-sheet, cognizance of the offence under section 447/294/323 of the Indian Penal Code was taken as per section 190(1)(b), Cr.P.C. The accused person entered his appearance before this Court after receiving the summons. Copies were furnished to the accused person as per provision contained in section 207 Cr.P.C. The particulars of the offence under section 447/294/323 of the Indian Penal Code were explained to the accused person to which he pleaded not guilty and claimed to be tried.

**Points for determination**

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused person, at about 5:30 PM on 03.01.2018, at village Kachikata Deuri Gaon, under Bihpuria Police Station, committed criminal trespass by entering into the house compound of Sri Bijoy Deuri with an intent to commit an offence, and thereby committed an offence punishable under section 447 of the Indian Penal Code ?

(b) Whether the accused person, at about 5:30 PM on 03.01.2018, at village Kachikata Deuri Gaon, under Bihpuria Police Station, uttered obscene words to Sri Bijoy Deuri and his family members in and nearby public place, and thereby committed an offence punishable under section 294 of the Indian Penal Code ?

(c) Whether the accused person, at about 5:30 PM on 03.01.2018, at village Kachikata Deuri Gaon, under Bihpuria Police Station, voluntarily caused hurt to Sri Rajamon Deuri, father of informant Sri Bijoy Deuri, and thereby committed an offence punishable under section 323 of the Indian Penal Code ?

5. The prosecution, in order to prove their case, examined only two witnesses, namely, Sri Bijoy Deuri (informant) (PW-1) and Sri Rajamon Deuri (victim) (PW-2). The evidence of the informant and the victim has not supported the prosecution case. The learned Addl. P.P. submitted that calling of further witnesses will not improve the prosecution case and prayed for closing the prosecution evidence. As such, the prosecution evidence was

closed. Since no incriminating material surfaced against the accused person as such recording of statement of the accused person u/s 313 Cr.P.C was dispensed with. Both the sides advanced their respective arguments in this case.

**DISCUSSION, DECISION AND REASONS THEREOF:**

6. At the very outset it is essential to have a brief resume of the version of the witnesses i.e. the informant and the victim in order to marshal the evidence in right perspective in tandem with the points for discussion.

7. PW-1 Sri Bijoy Deuri, informant has stated that on the day of the occurrence he was present in his house and the accused was going through the road situated in front of his house creating nuisance by consuming liquor and as he asked the accused not to raise 'hullah' then an altercation took place between him and the accused. His father intervened in the altercation which took place between him and the accused and in the pushing and pulling his father fell down on the ground and sustained simple injury. Ext-1 is the ejahar lodged by him. In his cross-examination, he has stated that he had not written the ejahar by himself and the same was written by someone else and he does not know what his written in the ejahar. The accused did not utter any obscene words. His father sustained injury by falling on the ground in the course of pushing and pulling. The occurrence took place on the road and not near their house. He does not have any objection if the accused is acquitted from this case.

8. PW-2 Sri Rajmoni Deuri, victim stated that on the day of the occurrence when the accused was going through the road situated in front of their house by raising 'hullah' in intoxicated state, his son asked the accused not to do for which an altercation took place between his son and the accused and when he went to separate both of them due to pushing and pulling, he fell down on the ground and sustained simple injury and out of anger his son lodged an ejahar against the accused. In his cross-examination, he has stated that the accused neither hurled any obscene words nor assaulted him. The occurrence did not take place in his land. His son lodged the case against the accused out of misunderstanding and he does not have any objection if the accused is acquitted from this case.

9. What comes out from the evidence on record is that the prosecution witnesses i.e. the informant and the victim have not at all supported the prosecution version. It appears from the evidence on record that only an altercation took place between PW-1 and the accused, as PW-1 asked the accused not to do 'hullah' by consuming liquor and as such PW-2 approached to separate PW-1 from the accused and due to the pushing and pulling, PW-2 fell down on the ground and sustained injury, So, it is evidently clear from the evidence on record that except altercation nothing had happened. Furthermore, in their cross-examination, both the PWs have categorically stated that the accused neither assaulted them nor hurled any obscene words to them and that the case was lodged out of misunderstanding and they do not have any objection if the accused person is released from this case. Hence, there is not an iota of evidence to the effect that the accused person committed criminal trespass by entering into the house compound of PWs or hurled obscene words to them in or nearby public place or voluntarily caused hurt to PW-2 as alleged.

10. In the result, I am convinced that the prosecution has miserably failed to bring home the accusations under section 447/294/323 of the Indian Penal Code against the accused person.

### **ORDER**

11. In view of the discussion made above, the points for determination are decided against the prosecution and the accused person Sri BhupenDeuri is acquitted of the accusations under section 447/294/323 of the Indian Penal Code. Consequently, the accused person is set at liberty forthwith. The bail-bond of the accused person stands cancelled and surety stands discharged.

12. Given under my hand and the seal of this Court on this the 9<sup>th</sup> day of April, 2019.

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Dictated and Corrected by me:

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Continued ..... (Appendix)

**A P P E N D I X**

**WITNESSES FROM THE PROSECUTION SIDE**

Sri Bijoy Deuri (PW-1)

Sri Rajamon Deuri (PW-2)

**PROSECUTION EXHIBITS**

Ext-1 (Ejahaar)

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBITS**

Nil

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Transcribed and typed by me:  
Narayan Chetri, Stenographer