

**DISTRICT: NAGOAN  
IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, HOJAI**

**GR CASE NO: 1515/13  
U/S 394/352/34 IPC**

**PROSECUTOR: STATE OF ASSAM  
VERSUS  
ACCUSED: RUHUL AMIN & ORS.**

**PRESENT: BISWADEEP BARUAH, JMFC, HOJAI**

**ASSISTANT PUBLIC PROSECUTOR: SRI. B. BHATTACHARJEE**

**ADVOCATE FOR THE ACCUSED: SRI. S. U. CHOUDHURY**

**EVIDENCE RECORDED ON: 24/03/17**

**ARGUMENT HEARD ON: 24/03/2017**

**JUDGMENT DELIVERED ON: 05/04/2017**

### **JUDGMENT**

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Murajhar Police Station by the informant Sarif Uddin on 04/09/13 to the effect that on the instant date about 5 p.m., the informant had gone to the house of the accused namely Ruhul Amin, Abdul Subbur and Abdul Mannan to complain that their goats were damaging the standing paddy of the informant. This infuriated the accused and they abused the informant in a vulgar language and also assaulted him causing grievous injuries to his body.
2. The police upon receipt of the ejahar registered Murajhar Police Station case no. 258/2013 u/s 294/342/325/427/34 of IPC and started investigation in the case. After completion of the investigation the police submitted chargesheet against the accused, Ruhul Amin, Abdul Subbur and Abdul Mannan under sec 294/342/325/427/34 of IPC.

3. The accused were called upon to enter trial. Accused Abdul Mannan remained absent despite due service of summons. Subsequent processes to compel his attendance also yielded no results. The other accused who were his own family members informed this Court that accused Abdul Mannan had gone to Saudi Arabia for work purpose and there is no certainty as to when he would return back. The informant also appeared and confirmed the version of the accused. Considering the statements of both parties and also considering the fact that there was no immediate prospect of procuring the attendance of accused Abdul Mannan in the near future, I filed the case against the said accused and a standing W/A was issued against him. The copies of all the relevant documents were furnished to the accused present. Upon hearing and on perusal of record, particulars of offence under sec 294/352/34 of IPC was explained to the accused to which they pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined one witness who is the informant; whereas the defense did not adduce any evidence.
5. The statement of defense of the accused u/s 313 Cr.P.C. was discarded with since the accused was not incriminated by the Prosecution Witness.
6. I have heard both the parties. I have heard the learned counsel for the accused persons who submitted that there is no material against the accused; as such the accused needs to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following point for determination-
  - (1) Whether the accused persons had on 04/09/13 at about 5 p.m., abused the informant in a vulgar language in furtherance of their common intention and thereby committed offence punishable under sec 294/34 of IPC?
  - (2) Whether the accused persons had on 04/09/13 at about 5 p.m., assaulted the informant without any provocation in furtherance of their common intention and thereby committed offence punishable under sec 352/34 of IPC?
8. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

**DISCUSSION, DECISION AND REASONS FOR THE DECISION:**

**POINT FOR DETERMINATION NOS.1 and 2:**

9. I have taken up both the points for determination together to arrive at a just decision for the sake of convenience. The prosecution examined one witness who is the informant of the instant case. The defense did not adduce any witnesses.
10. PW1, Sarifuddin stated that the accused were his relatives and co-villagers. He stated that the incident took place around two and half years back in the evening and there was a misunderstanding between him and the accused which resulted in an argument owing to the cattle of the accused entering his paddy and he filed the case in anger. Exhibit 1 being the ejahar and Exhibit 1(1) being his signature was proved by PW1.
11. In his cross examination, PW1 stated that the matter has been amicably resolved and he did not have any objection to the acquittal of the accused.
12. *DECISION:* In analyzing the depositions of the Prosecution Evidence, it is seen PW1 who is the informant has not implicated the accused in any manner. He has merely stated that there was an argument between him and the accused owing to the cattle of the accused entering his paddy. Moreover it appears that the matter has been amicably settled and the informant and does not want to implicate the accused. PW1 further stated that he did not object to the acquittal of the accused. Hence in light of the evidence of the informant, the point of determination is answered in negative, in favour of the accused persons.

#### ORDER

1. In view of the discussions made above and the decision reached therein it is held that the prosecution has failed to prove the charge against the accused; the Prosecution witness has not supported the case and incriminated the accused in any manner; as such the accused Ruhul Amin and Abdul Subbur are held not guilty of the charge under section 294/352/34 of IPC and acquitted.
2. The case is disposed of on contest without cost.
3. The bail bonds of the accused stands extended for a period of six months.

Given under my hand and the seal of this court on this the 05<sup>th</sup> day of April, 2017 at Hojai.

BiswadeepBaruah,  
Judicial Magistrate First Class, Hojai.

**APPENDIX:**

**WITNESS FOR THE PROSECUTION:**

**PW1      Sarif Uddin**

**WITNESS FOR THE DEFENSE: NONE**

**EXHIBITS:**

**EXHIBIT 1    EJA HAR**

**EXHIBIT 1(1) SIGNATURE OF PW1**