

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
UDALGURI :: BTAD :: ASSAM.**

**G.R. CASE NO. 740 of 2019
(PRC NO. 1299/19)**

**Present: Sri Mridul Kumar Saikia.
Chief Judicial Magistrate
Udalguri, BTAD, Assam.**

STATE

-VS-

SRI SURESH BORO

.....Accused.

For the Prosecution : Mr. M. Khakhlari, Learned Addl. PP.

For the Defence : Mr. R. Khakhlari, Learned Advocate.

Date of prosecution evidence : 12-03-2020.

Date of argument & Judgment : 12-03-2020.

U/S – 290/294/506 I.P.C.

J U D G M E N T

1. The case of the prosecution, in brief, is that, in the midst of 2019 calendar dated 28-07-2019 some villagers of Bagpuri village under Tangla Police Station called for a meeting in the premises of Birthwdaw club against one Sri Suresh Boro pertaining to his conversion from 'Bathow' to other religion; wherein the villagers asked him to show proper and reliable cause for his affirm decision to conversion. In this context, said Sri Suresh Boro preferred a short time from them for re-conscience to inform about his decision to which the village committee allowed him to 31-07-2019 for the same and on that relevant day at about 9 A.M. Suresh Boro appeared before the villagers of Bagpuri village at the same premise and declared his final affirmation about his conversion to

other religion. The villagers' persistent request to stop him got nullified by the affirmed & robust decision of said Suresh Boro by his declaration before them and he left the place by abandoning the villagers in ridiculous manner and regarding this matter, with intent to take revenge, he lodged an ejahar before the Bhergaon Outpost by falsely incriminating some villagers alleging involved in conflict with him. Hence, the complainants who are the President and Secretary of Bagpuri village, informing about the occurrence, lodged an ejahar on 01-08-2019 before the In-Charge, Bhergaon Outpost.

2. On receipt of the ejahar to the effect aforesaid, the I/C Bhergaon made Bhergaon OP GD Entry No. 26 dated 02-08-2019 and immediately forwarded the same to the Officer-in-Charge, Tangla Police Station for registering a case under proper sections of law and to investigate the same. Accordingly, on receipt of the same, the Officer-in-Charge, Tangla Police Station registered Tangla PS case no. 104 of 2019 U/S 294 I.P.C. and on completion of investigation the I/O submitted the charge sheet against the accused Sri Suresh Boro alleging commission of the offences U/S 294/290/506 I.P.C.
3. On the basis of the charge sheet, cognizance of offence was taken under Section **190 (1)(b)** of the Cr.PC. Necessary processes were issued for causing appearance of the accused person before the court. Accordingly, the accused appeared before the court to answer the charges levelled against him. Necessary copies of all relevant papers and documents were furnished to the accused in compliance with the provisions of Section 207 CrPC. Finding a prima-facie case for commission of offences U/S 294/290/506 I.P.C., the particulars of offences U/S 294/290/506 I.P.C. were explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
4. In order to bring home the charges, the prosecution examined as many two(2) Pws including the complainant in the form of:

PW 1 Sri Prafulla Basumatary (complainant)

PW 2 Sri Jatin Boro.

The prosecution exhibited the following document in the form of:

Ext. 1 – Ejahar.

5. After recording the prosecution witnesses the accused was examined U/S 313 Cr.P.C. All the incriminating circumstances which appeared in evidence against

the accused were put to him for his explanation. The accused denied all the circumstances and pleaded his innocence. Further the accused declined to adduce evidence in defence.

6. I have heard the argument put forward by the learned Additional P.P. and the learned advocate appearing for the accused. I have also carefully gone through the entire evidence available with the case record.
7. **POINTS FOR DETERMINATION OF THE CASE :** To ascertain the guilt of the accused person on the charges levelled against him, the following points are sorted out for decision in the present case:

(I) Whether on 31-07-2019 at village Bogpuri under Tangla Police Station the accused abused the complainants and other villagers using indecent words?

(II) Whether on the same day, time and place the accused committed the offence of public nuisance before the villagers?

(III) Whether on the same day, time and place the accused threatened to the complaints and other villagers with dire consequences?

DISCUSSION, DECISION AND REASONS THEREOF:

9. To decide the above points, let us make a scrutiny of the evidence led by the prosecution in support of its case. PW-1 Sri Prafulla Basumatary, one of the complainants has stated in his deposition that the accused is from their same village and about six months back one day in the morning hour due to misunderstanding with the accused person they had an altercation with him and on being emotional he lodged the case against the accused. Presently, they have no differences and are living peacefully. He expressed his unwillingness to proceed further with the case. He has proved the ejahar Ext.1 by identifying his signature Ext. 1(1) thereon.
10. In cross-examination, PW 1 stated that he has no objection if the accused gets acquitted from the case.
11. PW 2 Jatin Boro stated that on the day of occurrence, in the morning hour due to misunderstanding with the accused the complainant had an altercation and on being emotional, he filed this instant case against the accused. Presently, they are living peacefully.

12. In the cross-examination, PW 2 also stated that he has no objection if the accused gets acquitted from the case.
13. From the testimonies of the witnesses, it is apparently clear that the complainant lodged the ejahar against the accused due to misunderstanding with him as admitted by the complainant himself. Further, both the witnesses themselves expressed that presently, they are living peacefully with the accused person and they do not want to proceed further with the case and have no objection, if accused gets acquitted from the charges. Due to misunderstanding only, the complainant, on being emotional, lodged the ejahar against the accused. It is found that the complainant noway incriminated the accused with the alleged offence. As the complainant has deposed before the court voluntarily, the evidence of PW 1 is accepted.
14. Thus, from the above appraisal, appreciation of evidence on record, and the application of law, I find that the prosecution has failed to establish the offence U/S 294/290/506 I.P.C. against the accused beyond all reasonable doubt. In the result, the accused is not found guilty U/S 294/290/506 I.P.C. Hence, the accused Sri Suresh Boro is acquitted from the charges U/S 294/290/506 I.P.C. and he is set at liberty forthwith.
15. The bail bond shall remain in force for another six months as per provisions of Section 437(A) Cr.P.C.

Given under the hand and seal of this Court on this 12th day of March, 2020 at Udalguri, BTAD, Assam.

Dictated and corrected by me:

(Mridul Kumar Saikia)
Chief Judicial Magistrate
Udalguri, BTAD, Assam

(Mridul Kumar Saikia)
Chief Judicial Magistrate
Udalguri, BTAD, Assam.

APPENDIX

- A. Prosecution witnesses : PW 1 Sri Prafulla Basumatary (complainant)
PW 2 Sri Jatin Boro.
- B. Defence witness : Nil.
- C. Documents exhibited : Ext. 1 – Ejahar

(Mridul Kumar Saikia)
Chief Judicial Magistrate
Udalguri, BTAD, Assam.

Typed and transcribed by me:

(Tulashi Dev Sarma/Stenographer)