



**DISTRICT. BAKSA**

In the Court of the **Addl. Chief Judicial Magistrate, Baksa, Mushalpur**

Present: **Sri Achyutananda Saikia,**  
Addl. CJM, Baksa

Date of Judgment: **27.04.2022**

Case No. **PRC 864/2019**  
Under Section 294/323 IPC  
(Barbari P.S. Case No. 43/2018 u/s 294/325 IPC)

COMPLAINANT:	<b>State of Assam</b>
REPRESENTED BY:	<b>Smti. Nalini Medhi,</b> Ld. Asstt. Public Prosecutor
ACCUSED:	<b>1. Sri Atul Nath @ Batul (A1)</b> S/O Lt. Dhruba Nath Vill – Bhabanipur 'B' Block, P.S. Barbari, Dist. Baksa
REPRESENTED BY:	<b>Sri Gobinda Nath</b> Ld. Advocate


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Baksa, Mushalpur



Date of Offence	21.07.2018
Date of FIR	21.07.2018
Date of Charge Sheet	31.07.2018
Date of Framing of Charge	18.01.2022
Date of commencement of Evidence	27.04.2022
Date on which Judgment is reserved	27.04.2022
Date of Judgment	27.04.2022
Date of Sentencing Order, if any	

### Accused Details:

Rank of the accused	Name of the Accused	Date of Arrest	Date of release on Bail	Offences Charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention undergone during trial for purpose of Section 428 Cr.P.C.
A1	Sri Atul Nath @ Batul			294/323I PC	Acquitted		

  
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### Judgment

1. Prosecution case in brief is that on 21.07.2018 at about 6:00 PM the accused came in front of the house of the informant after getting drunk from the house of one Sri Biren Nath the accused started to utter obscene words and the informant resisted and then accused pushed the informant and when informant's father Sri Lepeng Ray came forward accused assaulted him with a broken branch of a tree causing injuries on his head and hands. Accordingly, the informant Sri Durgeswar Ray lodged an FIR and Barbari P.S. Case No. 43/2018 was registered under Section 294/325 of IPC.
2. The case was investigated into and on completion of investigation the Investigating Officer submitted Charge Sheet under Section 294/323 of IPC against the accused and cognizance was accordingly taken against the accused. The accused appeared before Court to face trial and after furnishing copies of relevant documents to the accused in compliance to Section 207 of Cr.P.C. substance of accusation punishable under Section 294/323 of IPC was stated to the accused to which the accused pleaded not guilty.
3. During trial prosecution examined the informant and the injured. Considering the evidence on record examination of the accused under Section 313 of Cr.P.C. was dispensed with. Defence did not adduce evidence.

### Points for Determination

4. Whether the accused on 21.07.2018 at about 6:00 PM abused the informant Sri Durgeswar Ray with obscene words in front of his house and also voluntarily caused hurt to informant's father Sri Lepeng Ray, and thereby committed offences punishable under Section 294/323 of IPC.

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5. I have heard argument of both sides and examined the evidence on record.

**Discussion on Evidence, Decision and Reason Thereof**

6. According to PW-1, informant Sri Durgeswar Ray deposed that on the day of occurrence in the afternoon at about 4:00 PM the accused and his father Sri Lepeng Ray had an altercation in front of his house as the accused was drunk. He lodged the FIR out of anger and misunderstanding. Prosecution marked the FIR as Exhibit-P1/PW-1. Sri Lepeng Ray is examined as PW-2, and he also corroborated PW-1 that he and the accused had a mere altercation in front of his house.
7. Thus it is seen that the principal witnesses of this case have not supported the charges. The witnesses in their evidence have specifically stated that there was mere altercation between the accused and PW-2. Mere allegation of altercation is not enough to attract the charges against the accused unless the same is coupled with some overt act on the part of the accused attracting the ingredients of the offences charged, which is missing in evidence. Thus prosecution has failed to prove the charges against the accused.
8. The accused is thus acquitted from the charges punishable under Section 294/323 of IPC and set at liberty forthwith.

Given under my hand and seal of this Court on this the 27<sup>th</sup> Day of April, 2022.

(Typed by me)

Achyutananda Saikia  
Addl. CJM, Baksa

Addl. Chief Judicial Magistrate  
Baksa, Mushalpur

Achyutananda Saikia  
Addl. CJM, Baksa

Addl. Chief Judicial Magistrate  
Baksa, Mushalpur

**APPENDIX****LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution Witnesses:**

RANK	NAME	NATURE OF EVIDENCE (Eye Witness/Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
PW-1	Sri Durgeswar Ray	Informant
PW-2	Sri Lepeng Ray	Victim

**B. Defence Witnesses:**

RANK	NAME	NATURE OF EVIDENCE (Eye Witness/Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
NIL	NIL	NIL

**C. Court Witnesses:**

RANK	NAME	NATURE OF EVIDENCE (Eye Witness/Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
NIL	NIL	NIL

**LIST OF ROSECUTION/DEFENCE/COURT EXHIBITS****A. Prosecution Exhibits:**

Sr. No.	Exhibit Number	Description
1	Exhibit-P1/PW-1	FIR

**B. Defence Exhibits:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

**C. Court Exhibits:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

**D. Material Objects:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

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