

**APPENDIX**

<b>IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,          BAKSA, MUSHALPUR</b> Present : Smti. Dimple Boro, CJM. Date of Judgment: 17-10-2022 <b>Case No. : PRC-648/20</b> Simla PS Case No. : 33/16 <b>U/s : 341/294/506/171(F) IPC</b>	
Complainant	State of Assam
Represented by	Mr. <b>Ranjit Basumatary</b> , APP.
Accused	1. Kapil Basumatary, S/o: Lt. Prabhash Basumatary, Vill: No.1 Dihira, PS: Simla, Dist.: Baksa. <b>(A-1)</b>
Represented by	<b>Adv. Smti. Ajanta Rabha</b>
Date of Offence	<b>01-04-2016</b>
Date of FIR	<b>01-04-2016</b>
Date of Charge Sheet	<b>05-04-2016</b>
Date of Framing of Charge	<b>08-11-2021</b>
Date of commencement of evidence	<b>29-12-2021</b>
Date on which judgment is reserved	<b>NA</b>
Date of Judgment	<b>17-10-2022</b>
Date of the Sentencing Order, if any	<b>NA</b>

**Accused Details:**

Rank of the Accused	Name of 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 Sec. 428 Cr.PC.
A-1	Kapil Basumatary,	<b>NA</b>	04-05-2021	U/S 341/294/506/171(F) IPC	Acquitted	NA	<b>NA</b>

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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
<b>PW1</b>	<b>Gwjwn Khobam Muchahary</b>	<b>Informant</b>
<b>PW2</b>	<b>Thulunga Lahary</b>	<b>Victim</b>

**B. Defence Witnesses, if any : NIL**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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**C. Court Witnesses, if any : NIL**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>1</b>	<b>Ext.P-1/PW1</b>	<b>FIR</b>

**B. Defence: NIL**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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**C. Court Exhibits: NIL**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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**D. Material Objects: NIL**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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**J U D G M E N T**

1. The prosecution story in brief is that on 01-04-2016, informant Gwjwn Khobam Muchahary lodged an FIR before O/C, Simla PS to the effect that on the same day, Friday at around 8.30 PM, the accused was prevented from damaging the election poster of UPP Party at Dihira village. As such, the accused who is a supporter of BPF candidate had physical assaulted Maghiram Brahma and caused him injury. Then both entered into a fight.
2. On 02-04-2016 informant Swmkhwr Kherkatary filed another FIR to the effect that on 01-04-2016, Friday within 7.30 PM to 8.00 PM accused Kapil Basumatary and Prahlad Lahary armed with sharp weapon damaged the election poster of UPP candidate Sri Hitesh Basumatary. When Paresh Kherkatary prevented the accused persons, then both accused had suddenly attacked Paresh Kherkatary. On hue and cry, when Tijen Lahary came to prevent the accused persons, then Tijen Lahary also faced their attack, assault. On more hue and cry, the public came and controlled the situation. This FIR was registered as supplementary FIR of the earlier FIR.
3. Simla PS Case No. 33/16, u/s 325/171(F) IPC was registered and investigated into. After completion of investigation, charge-sheet was submitted against the accused person u/s 341/294/506/171(F) IPC.

4. Particulars of the offence U/s 341/294/506/171(F) IPC were read over and explained to the accused person to which the accused person pleaded not guilty and claimed to be tried.
5. The prosecution examined 2 (two) witnesses and defence examined none.
6. The accused person is examined u/s 313 Cr.P.C. The accused person has declined to adduce evidence.
7. I have heard argument of the learned A.P.P. as well as the learned defence counsel and perused all the relevant documents available on record.

**8. POINTS FOR DETERMINATION:-**

1. Whether the accused person had wrongfully restrained Maghiram Brahma?
2. Whether the accused person had uttered obscene words in the public to the annoyance of Maghiram Brahma and others?
3. Whether the accused person had criminally intimidated Maghiram Brahma?
4. Whether the accused person had committed undue influence or personation at an election?

**9. DISCUSSION, REASONS AND DECISION:**

**10. POINT NO. 1, 2, 3 & 4:**

11. The prosecution has examined both the informant and the alleged victim as PW1 & PW2 but both of them have said

nothing against the accused person. Under such circumstance, the ingredients of sections 341/294/506/171(F) IPC are not established.

12. From the above discussions, I find that it is not proved that the accused person had wrongfully restrained Maghiram Brahma **AND** the accused person had uttered obscene words in the public to the annoyance of Maghiram Brahma and others **AND** the accused person had criminally intimidated Maghiram Brahma **AND** the accused person had committed undue influence or personation at an election. So, the accused person cannot be held guilty u/s 341/294/506/171(F) IPC.

13. From the above discussions, I am of the considered opinion that the prosecution has failed to prove the guilt of the accused person beyond reasonable doubt U/s 341/294/506/171(F) IPC. So, I acquit accused Kapil Basumatary of the charges U/s 341/294/506/171(F) IPC and is set at liberty.

14. Given under my hand and seal of this Court this 17<sup>th</sup> day of October, 2022.

Typed by me—

**D. Boro**  
**CJM, Baksa**

**D. Boro**  
**CJM, Baksa**