

**IN THE COURT OF
THE CHIEF JUDICIAL MAGISTRATE::BAKSA
Case No. : GR-31/18
Under Section 498(A) IPC**

**Present :- Smti. D. Boro, AJS,
Chief Judicial Magistrate, Baksa.**

**The State of Assam.....Prosecution.
-Vs-
Surhab Ali.....Accused Person.**

Evidence recorded on :- 18-11-2016, 18-07-2017,
30-11-2017, 08-07-2019.
Argument heard on :- 05-07-2022
Judgment delivered on :- 14-07-2022

Advocate Appeared :-

Mr. Ranjit Basumatary.....APP for the State of Assam.

Smti. Swmshri Kachary.....Advocate for the accused person.

J U D G M E N T

1. On 21-02-2011 informant Sonabhanu had filed a complaint case in the Criminal Court, Barpeta which was forwarded to Gobardhana PS to register a case and investigate the offence. The gist of the case is that on 16-10-2007 the informant was socially married to accused Surhab Ali through Kabin registration. Necessary articles, clothes, gold and silver jewelries

were given by the informant's father at the time of her marriage. After passing 4/5 months nicely, at the ill-advice of his mother and brother, accused Surhab Ali demanded Rs. 50,000/- from the informant's father and one motor cycle as dowry. The informant was physically and mentally tortured due to inability of her father to fulfill the said demand. Bearing all the atrocities, the informant continued conjugal life and she became mother of a son. She was driven out of the house four times due to non-fulfillment of the demand. She was taken back with social commitment of non-torture on her. On 01-04-2010, she was driven out of the house with her child after severe physical assault demanding dowry. When the informant filed FIR at Police Station, on 17-04-2010 the accused took back the informant compromising the matter socially and it was reduced into writing. After passing few days well, on 10-02-2011, the informant was again severely assaulted demanding dowry and was driven out of the house with the child. She was threatened to be killed in case of her return without dowry.

2. Police registered a case against three nos. of accused persons u/s 498(A)/420 IPC and after completion of investigation submitted charge-sheet only against accused Surhab Ali u/s 498(A) IPC.
3. Charge was framed against the accused u/s 498(A) IPC and contents of the charge were read over and explained to the

accused person to which the accused person pleaded not guilty and claimed to be tried.

4. The prosecution examined 4 (four) nos. of witnesses. The defence has examined none.
5. The accused person is examined u/s 313 Cr.P.C. The accused person has declined to adduce evidence.
6. 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.

7. POINTS FOR DETERMINATION:-

1. Whether the accused person being the husband of the informant had subjected her to cruelty?

8. DISCUSSION, REASONS AND DECISION:

9. POINT NO. 1 :

10. PW1 Firoja Khatun is an independent witness. She said that the informant and the accused are wife and husband. Both have a son. The informant does not stay with the accused now-a-days. She does not know why the informant has filed this case.
11. PW2 Sonabhanu Begum is the informant. She said that the accused is her husband. She got married ten years ago. She led conjugal life for two years. They have a child. Her husband demanded Rs. 50,000/- to buy bike. Due to her inability to pay the amount, her husband started assaulting her and had driven her out of the house. She had called for a bichar in the village.

The accused did not obey the bichar and did not take her back. As such, she has filed the case. The accused has married two women.

12. PW3 Anari Begum is the mother of the informant. She said that the accused had sent her daughter to her house after physical assault. The accused again took her back and after keeping her about six months, he demanded Rs. 50,000/- for buying bike and sent her back to her house. As they are poor person and were unable to pay the money, the accused has driven her away. For this reason, her daughter has filed this case.
13. PW4 Samsul Nehar does not know anything about the occurrence.
14. PW2 and PW3 are the daughter and mother. The accused during his examination u/s 313 Cr.PC. has said that the informant is carrying on conjugal life with him. The informant has come back to him. After discussions with the village society, the accused has accepted back the informant as his wife.
15. The informant had submitted a petition before this Court stating that she has filed the case due to misunderstanding and she is residing with the accused in the same house peacefully. The informant had prayed to acquit the accused. Section 498(A) IPC being non-compoundable and the informant not being

identified by the Ld. APP, this Court rejected the prayer of the informant.

16. The informant/PW2 has stated during her evidence before the Court that she has filed the case when the accused did not take her back.

17. It is alleged in the FIR that the accused had tortured the informant for two things firstly, for Rs.50,000/- and secondly for one bike. As per FIR, the accused had demanded those items many times and she was driven out of the house every time for these two items only.

18. The accused had admitted during his examination under section 313 Cr.PC. that he has married second time after waiting long eight years for the informant. Question arises that if the accused has repeatedly tortured and driven out the informant demanding dowry, then why the informant had gone back to the accused even after his second marriage.

19. In the entirety of the facts and circumstance of the case, I find that the prosecution allegation is doubtful.

20. In view of the discussions, I find that it is not proved that the accused person had being the husband of the informant subjected her to cruelty. So, the accused person cannot be held guilty u/s. 498(A) IPC.

21. From the above discussions, I am of the considered opinion that the prosecution has failed to prove the guilt of the accused

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beyond reasonable doubt u/s 498(A) IPC. So, I acquit the accused person Surhab Ali of the charge u/s 498(A) IPC and is set at liberty.

22. Given under my hand and seal of this Court this 14th day of July, 2022.

Typed by me—

**D. Boro
CJM, Baksa**

**D. Boro
CJM, Baksa**

Typed by me...

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APENDIX

PROSECUTION EXHIBITS: NIL

DEFENCE EXHIBITS: NIL.

EXHIBITS PRODUCED BY WITNESSES: NIL.

COURT EXHIBITS: NIL.

PROSECUTION WITNESSES :

PW1- Firoja Khatun.

PW2- Sonabhanu Begum

PW3- Anari Begum

PW4- Samsun Nehar

DEFENCE WITNESSES :

COURT WITNESSES: NIL.