

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE
TEZPUR. SONITPUR.**

Present: Dr. M Baruah
Chief Judicial Magistrate,
Sonitpur, Tezpur.

G. R. Case No. 51/2013
U/s 498 A IPC

State

Vs

1. Md. Abu Sama

...Accused person

Appearance:

Counsel for the State : Sri N Das.

Counsel for the defense : Sri A. Saikia.

Charge framed on : 7-12-2013.

Evidence recorded on : 28-4-2014.

Argument heard on : 12-5-2014.

Judgment delivered on : 12-5-2014.

J U D G M E N T

The prosecution's case in brief is that the informant Minara Khatun lodged an ejahar before the I/C, Borghat OP stating that she got married with the accused about six years ago as per Muslim rites. After few days of their marriage her husband at the instigation of her father-in-law tortured her physically and mentally demanding dowry. She gave birth to two female child. On 5-1-13 at about 7 a.m. the accused persons assaulted her causing grievous injuries on her hand, head and chest and also drove her out from their house.

2. Upon receive of the ejahar the I/C, Borghat OP made a GDE and forwarded the same to the O/C, Tezpur PS for registering a case. Accordingly, the O/C, Tezpur PS registered a case being Tezpur P S Case No. 29/13 u/s 498A/325 IPC and started investigation. After investigation, police filed charge sheet against the accused Abu Sama U/S 498A/325 IPC.

3. The accused person appeared before the Court and faced trial. Copy of the prosecution documents were furnished to the accused person. After hearing learned counsel for both sides, charge u/s 498 A IPC has been framed and its particulars are read over and explained to the accused person. The accused person pleaded not guilty and claimed to be tried.

4. Prosecution adduced evidence of the sole material witness i.e. the informant-cum-victim of this case. Considering the nature of evidence adduced by the informant-cum-victim prosecution found it not proper to adduce further evidence as it would not improve the prosecution case. As the informant-cum-victim has not implicated the accused, therefore, statement of the accused U/s.313 Cr.P.C. was not recorded.

5. **POINTS FOR DETERMINATION**

(i) Whether the accused person being the husband of informant Minara Khatun, had subjected her to cruelty and harassed her where such harassment is with a view to coercing her to meet any unlawful demand for dowry or is on account of failure by her to meet such demand ?

Heard argument of the learned counsel for the prosecution and the defense. Perused the materials on record.

6. **DECISION, DISCUSSION AND REASONS THEREOF**

The informant Miss Minara Khatun depose as PW-1 and stated that she got married to the accused about seven years ago. She has two daughters. She had dispute with her father-in-law. Then her husband and father-in-law had beaten her. She came out to her father's residence and filed the ejahar. Ext-1 is the ejahar and Ext-1(1) is her signature. When her husband came out from jail, she has been staying with her husband. She filed the case out of her misunderstanding. She has no objection if her husband is set at liberty.

7. From the evidence of the informant cum victim, I found that the informant has not alleged that the accused had tortured her demanding her to meet unlawful demand for dowry and on her failure to meet such demand. She stated that her husband had beaten her because she had a dispute with her father-in-law. She has mentioned only about one incident of beating. This does not amount to physical or mental torture. On the other hand the informant stated that due to misunderstanding she filed the case. It is also found that the informant and the accused are staying together since her husband came out from the jail hazot. Under such condition I found that the accused has not committed any offence u/s 498 A IPC. The prosecution has failed to prove the case against the accused beyond doubt.

O R D E R

8. Considering the facts and circumstances of this case, I found that the prosecution has miserably failed to prove the case against the accused Abu Sama u/s 498 A IPC. As a result the accused person is acquitted and set at liberty. His bail bond stands cancelled.

9. Judgment is typed by me.

10. Set my hand and seal of this Court on this the 12th day of May, 2014.

(Manash Baruah)
Chief Judicial Magistrate,
Sonitpur, Tezpur.