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Case No: PR 1287 of 2019
(State of Assam Vs Hemanta Dungana)

APPENDIX-12

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
SONITPUR, TEZPUR

Present:- Smti C. Goswami, JMFC,
Sonitpur, Tezpur

[Date of the Judgment]
09.06.2022

[Case No: PR 1287 of 2019]

Thelamara Police Station case no: 54/19 registered under Section-498(A) of Indian Penal Code

COMPLAINANT :	STATE OF ASSAM
REPRESENTED BY	Mr. A.K. Sahani, Ld. Asst. P.P
ACCUSED PERSON	Hemanta Dungana (A1) S/O:- Tangik Dungana R/O:- Botabari P/S:- Thelamara Dist:- Sonitpur, Assam
REPRESENTED BY	Lina Devi, Ld. Counsel

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APPENDIX-13

Date of Offence	15.05.2019
Date of FIR	16.05.2019
Date of Charge Sheet	30.05.2019
Date of framing charge	11.02.2020
Date of commencement of evidence	05.04.2021,28.03.2022, 24.05.2022
Date on which judgment is reserved	04.06.2022
Date of Judgment	09.06.2022
Date of the Sentencing Order, if any	NIL

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	Sentenced Imposed	Period of Detention undergone during Trial for purpose of Sec. 428 Cr.P.C.
1	Hemanta Dungana (A1)	-	27.03.22	Sections-498(A) of India Penal Code	Acquitted	NIL	Does not arise

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JUDGMENT

1. The prosecution case in brief is that the instant case was initiated on the lodging of an ejahar dated 16.05.2019 by informant Narmada Devi. She alleged in the ejahar that her marriage was solemnized to A1 3 years ago. She alleged that soon after their marriage her husband/A1 used to physically and mentally torture her and demanded dowry. They have one minor child aged 1^{1/2} years. On 15.05.2019 at around 9 pm, A1 again started assaulting her by demanding dowry and then threw her out of her matrimonial home. Hence the case.
2. On receipt of the ejahar Thelamara P.S case no: 54/1 dated 16.05.19 under Sections- 498(A) of Indian Penal Code was registered and investigated by ASI Naren Phukan. On finding sufficient materials charge sheet was submitted under Section- 498(A) of Indian Penal Code vide charge sheet no.32/19 dated 30.05.19 by ASI Naren Phukan against accused person.
3. On receipt of charge sheet, cognizance of offence was taken as per the provision prescribed under Section 190(1) (b) of Code of Criminal Procedure.
4. On appearance of A1, necessary copies were furnished to him as per the provision of Section 207 of the Code of Criminal

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Procedure. Finding sufficient prima facie materials against A1, charge under Section- 498(A) of Indian Penal Code were framed against A1 which was read over and explained to him to which he pleaded not guilty and claimed to be tried.

5. During the course of trial, the prosecution side to prove its case examined 2(two) witnesses including the informant of this case. After closure of prosecution evidence, statement of defence of A1 under Section 313 of the Code of Criminal Procedure was recorded by stating the incriminating materials found against A1 to which his plea was of total denial. Defence, however, did not adduce any evidence in their support.

6. I have heard the arguments of both sides.

7. **Points for determination:**

(i) Whether A1 being the husband of the informant Narmada Devi, subjected her to cruelty, and thereby committed an offence punishable under Sections - 498(A) of the Indian Penal Code?

DISCUSSION :

8. In her examination-in-chief, PW1/informant Narmada Devi deposed that she knows A1 who is her husband. She deposed that their marriage was solemnised four-five years ago and a daughter

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was born out of the wedlock. She deposed that A1 along with his parents and sister demanded money to be bought from her parents place. She deposed that she was being rebuked for her looks and made to do all the household chores. She deposed that she was neglected as a girl child was born. She deposed that she was thrown out of her matrimonial home on 15.05.19 and she lodged the ejahar on 16.05.19. She identified Exhibit 1 as the ejahar and Exhibit 1(i) as her signature.

9. In her cross-examination, PW1/informant deposed that A1's family used to torture her after her marriage to A1 but she did not lodge any ejahar then. She deposed that her brother came on 16.05.19 and took her to the police station and then she went home. Police had enquired her about the incident. She denied the suggestion that her mother-in-law did not taunt her about her looks and did not tell A1 to bring a new wife. She denied the suggestion that A1 demanded money to be bought from her parents place. She denied the suggestion that she was neglected as a girl child was born.

10. She denied the suggestion that she has not been able to adjust with A1's family and so used to quarrel with them. She also denied the suggestion that A1 never assaulted her and that it was she who used to demand things. She also denied the suggestion

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that A1 did not throw her out of her matrimonial home on 15.05.19 and no such incident as alleged by her took place.

11. In her examination-in-chief, PW2 Mamta Devi deposed that she knows the informant and A1. She deposed that on 15.09.19 at about 9pm she heard a hulla in the informant's house which was due to a demand for dowry.

12. In her cross-examination, PW2 deposed that only she heard about the demand for dowry and she has no personal knowledge. She deposed that both the parties are residing together now.

13. The informant/PW1 was again re-examined as she had submitted later on that she is residing with A1 now who is her husband. In her re examination-in-chief, she deposed that she has lodged this case out of anger and misunderstanding and she has been staying with A1 since December 2021. She further deposed that whatever she has deposed earlier before the Court on 05.04.21 was due to anger against A1.

14. In her further cross-examination, PW1 deposed that they have amicably settled the matter.

The Law:

15. **SEC 498-A IPC :Husband or relative of husband of a woman subjecting her to cruelty-** Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purpose of this section, “cruelty” means -

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

DECISIONS AND REASONS THEREOF

16. From the perusal of materials on record, it divulges that the allegations stated by the informant against A1 was due to anger and misunderstanding.

17. As such the prosecution side has failed to prove that A1 has committed the said offence under Section- 498(A) of the Indian Penal Code against the informant beyond reasonable doubt.

ORDER

In light of the aforesaid discussion, I hold A1 is not guilty of offences under Section- 498(A) of the Indian Penal Code. Hence, he is acquitted from the charge leveled against him. A1 is set at liberty forthwith.

His bail bond is extended for a period of 6(six) months from the date of this order i.e. 09.06.2022 as per as Section 437(A) Code of Criminal Procedure.

The judgment is delivered in the open Court in presence of A1 and his engaged Counsel.

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Given under my hand and the seal of this court on this 09th day of June, 2022.

Typed by me,

(Smti. Chitrani Goswami), AJS
Judicial Magistrate First Class,
Sonitpur, Tezpur.

Smti Chitrani Goswami), AJS
Judicial Magistrate First Class,
Sonitpur, Tezpur.

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APPENDIX -14

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Narmada Devi	INFORMANT
PW-2	Mamta Devi	OTHER WITNESS

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	1	Ejhar

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B. Defence:

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