

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

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

G. R. Case No. 1633/2008
U/s 498 A IPC

State

Vs

1. Jitu Roy

...Accused person

Appearance:

Counsel for the State : Smti R Chakravorty, Sri N Das.

Counsel for the defense : Sri S. Nath

Charge framed on : 12-10-2010.

Evidence recorded on : 7-6-11,30-11-12,21-10-13.

Argument heard on : 7-11-2013.

Judgment delivered on : 7-11-2013.

J U D G M E N T

The prosecution's case in brief is that the informant Lipika Biswas Rai filed an ejahar before the I/C, Kacharigaon OP on 19-9-08 stating that her husband/accused was torturing her physically demanding dowry. On 16-9-08 at 1 a.m. in the night the accused assaulted her causing blood oozing injury from her mouth and he left her rented house at about 2:30 a.m. On 18-9-08 at about 9 p.m. Bhumi Roy, Rinku Roy and Chitu Roy came to her rented house and Rinku Roy and Chitu Roy assaulted her. Rinku Roy also threatened to kill and kidnap her children.

2. Upon receive of the ejahar, the I/C, Kacharigaon OP made a GDE and forwarded the same to the O/C Tezpur P.S. for registering

a case. Accordingly a case being Tezpur P S Case No. 796/08 u/s 498A/448/325/506/34 IPC was registered and started investigation. After investigation, police filed charge sheet against the accused Jitu Roy U/S 498 A IPC.

3. The accused person appeared before the Court and faced trial. Copy of the prosecution documents were furnished to the accused. 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 persons. The accused person pleaded not guilty and claimed to be tried.

4. Prosecution adduced evidence of the four witnesses, including the informant-cum-victim of this case. Considering the nature of evidence adduced by the material witness, i.e. the informant-cum-victim prosecution, further evidence is closed. In view of non implication against the accused by the witnesses, recording the statement of the accused U/s.313 Cr.P.C. dispensed with.

5. **POINTS FOR DETERMINATION**

(i) Whether the accused being the husband of the informant Lipika Biswas Roy had subjected her to cruelty by 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 of the woman by physical as well as mental torture or to coercing her or her related persons to meet the unlawful demand for dowry or any property ?

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

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

The PW-1 Sri Jatin Kalita deposed that the accused and the informant stayed in his rented house near his shop. One day at about 7.30 pm he heard some noise from the rented house of the informant and the accused. He heard the informant crying. He went and pacify them.

PW-2 Smti Raju Barua deposed that the accused and the informant had a fight and they altercation in a loud voice. She does not know the reason of their dispute.

PW-3 Smti Mitu Barua deposed similar to that of PW-2.

PW-4 Smti Lipika Roy who is the informant of this case deposed that she married the accused for about 17 years ago. Due to some family matter she had dispute with the accused. She then filed an ejahar and went to stay with her mother at Siliguri. On 1/10/13 she returned from Siliguri and is now staying with her husband i.e. accused. She has two child and they are staying with her husband. Ext-1 is her ejahar and Ext-1(1) is her signature.

During cross examination she stated that due to some house hold matter they had dispute. Due to misunderstanding she lodged the ejahar. Now she does not want to proceed with the case.

7. Form the above materials, I found that none of the witnesses stated that the accused used to torture the informant demanding dowry. The informant herself stated that due to family matter she had dispute with the accused. She never stated that the accused used to torture her physically and mentally demanding her to bring dowry. The evidence shows that the dispute between them occurred due to misunderstanding. Considering the above, I found that the prosecution has failed to prove the alleged offence 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 Jitu Roy u/s 498 A IPC. As a result the accused is acquitted and set at liberty. His bail bond stands cancelled.

9 . Judgment is prepared and typed by me.

10. Set my hand and seal of this Court on this the 7th day of November, 2013.

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