

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

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

G. R. Case No. 1947 of 2011
U/s 498 A IPC

State

Vs

1. Kushal Nath

...Accused person

Appearance:

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

Counsel for the defense : Sri D. Saikia.

Charge framed on : 11-6-2013

Evidence recorded on : 10-10-2013.

Argument heard on : 11-11-2013.

Judgment delivered on : 11-11-2013.

J U D G M E N T

The prosecution's case in brief is that the informant Aini Devi filed an ejarah before the I/C, Bihaguri OP on 11-4-11 stating that the accused is her husband. About nine months ago the accused eloped her and since then they are living as husband and wife. After two months the accused started physical and mental torture demanding dowry. The accused also threatened to kill her by pouring kerosene oil. On 2-9-11 at about 9 p.m. the accused demanded her dowry and also rebuked her by using slang language. The accused also assaulted her by fist blow, leg blow and also tried to kill her by strangulating on her neck. On 3-9-11 at about 9 a.m. the accused driven her out and since then she is residing at her parental house.

2. Upon receive of the ejahar, the I/C, Bihaguri 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. 989/11 u/s 498A IPC was registered and started investigation. After investigation, police filed charge sheet against the accused Kushal Nath 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 one witness i.e the informant-cum-victim of this case. Considering the nature of evidence adduced by the material witness, i.e. the informant-cum-victim, prosecution evidence is closed. In view of no implication against the accused, recording the statement of the accused U/s.313 Cr.P.C. dispensed with.

5. **POINTS FOR DETERMINATION**

(i) Whether the accused, on 2-9-11 at about 9 p.m. and on 3-9-11 at about 9 a.m., being the husband of the informant Aini Devi 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 informant cum victim deposed that she got married to the accused four years ago. Her husband used to come home drinking liquor. For that reason she had dispute with the accused / husband. She went to her father's residence and filed this case. Ext-1 is the ejahar. When her husband came out of the jail, she has been staying with her husband peacefully.

During cross examination she stated that due to misunderstanding she filed this case against the accused she does not want to proceed with the case.

7. From the materials on record, I found that the informant cum victim did not say that she was tortured by the accused after he comes home drinking liquor. She never stated that the accused tortured her demanding her to meet the unlawful demand for money and on her failure to meet such demand. There is no material against the accused regarding the alleged offence. The prosecution has failed to prove the case against the accused beyond the doubt.

8. **O R D E R**

Considering the facts and circumstances of this case, I found that the prosecution has miserably failed to prove the case against the accused Kushal Nath u/s 498 A IPC. As a result the accused 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 11th day of November, 2013.

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