

**IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),
AT GOHPUR, SONITPUR**

**G.R.No. – 26/2017
U/S.: 498(A)/494 of I.P.C.**

S T A T E

-Versus-

Sri Ram Das....accused person

**Present: Smt. Pooja Sinha, AJS,
Sub-Divisional Judicial Magistrate (M)
Gohpur**

Advocate appearing for the State : Smt. Barnali Chetia
Advocate appearing for the Accused : Sri Arnab Kr Das
**Dates of recording evidence : 18.07.2017, 09.11.2017,
27.12.2017 & 19.05.2018**
Date of hearing argument : 22.06.2018
Date of delivering Judgment : 25.06.2018

JUDGMENT

- 1. The case of the prosecution in brief is that,** Dudumoni Das got married to Ram Das in 2014 and out of their wedlock a girl child was born. However, after their marriage, she was inflicted to both mental and physical cruelty for fulfilling unlawful demand of cash and kind by her husband. That, Dudumoni Das filed a case against Ram Das at Gohpur P.S., however, Police amicably settled the dispute, after her husband gave in writing that he will never inflict any cruelty upon her. However, after 5 months she alongwith her child was sent to her paternal house. That, on 26.01.17 Sri Jonaram Das uncle of her husband informed her over phone that her husband has married another woman. Hence, the case.
- 2. In this regard,** Smt. Dudumoni Das filed an ejahar on 02.02.2017, the Officer-in-Charge, Gohpur Police Station registered a case as Gohpur P.S.

Case No. 25/17, U/S 498(A) of I.P.C. The police conducted investigation and thereafter submitted charge-sheet against the accused person Sri Ram Das for trial under section 498(A)/494 of I.P.C.

3. In due course, the accused person entered appearance. He was furnished with the copies as required under section 207 Cr.P.C. My Learned Predecessor-in-Office framed formal charge U/S 498(A)/494 of I.P.C. against the accused person, read over and explained to him the particulars of the offences, to which he pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution examined 6 (Six) witnesses. Statement U/S. 313 of Cr.P.C. of the accused person is recorded. Defence plea was of total denial. Defence opted not to adduce evidence.
5. **Point for determination :**
 - I. ***Whether the accused person being the husband of the victim Smt. Dudumoni Das since their marriage in 2014 subjected her to any form of cruelty as defined in Section 498(A) I.P.C? and***
 - II. ***Whether the accused person in 2017 married again, such marriage being void by reason of its taking place through the life-time of Smt. Dudumoni Das, his wife and thereby committed an offence U/S 494 of I.P.C.?***
6. **Discussion, Decision and Reasons thereof:** -I have heard the learned Counsel appearing for the State. Also heard the learned Counsel appearing for the accused persons. Upon hearing the learned Counsel for the parties and on perusal of the records, I am of the considered opinion to hold the following :-
7. **Point of Determination No. I& II:** **Both the points are taken up together for discussion in order to maintain the flow and appreciation of evidence.**

8. P.W.1 Smt. Dudumani Das, she is the informant cum victim of the instant case. She in her examination-in-chief deposed that the accused is her husband and they were married for past 3 years from the date of her deposition. That, out of their wedlock a girl child was born, who is now two years. That, since the time of her marriage the accused has put unlawful demand of cash and kind. That, the accused demanded T.V., Fridge and due to non fulfilment she was inflicted with various forms of torture. That, she filed a case at Gohpur P.S. about one and a half years back, but the same was compromised and he pledge in writing that he will never repeat such act. Thereafter, about 5 months later, he took her and their child to her paternal house to pay a visit, but left her there and never returned to take her back. Subsequently, she came to know from Sri Janram Das over phone that that her husband has married another woman. She then filed an ejahar which is exhibited as Ext.1 and identified her signature thereon.

9. During her cross-examination she deposed that she has not submitted any document with respect to the previous settlement amongst the husband and wife and the accused giving the same in writing. That, she does not remember the date when she was beaten up by her husband. That her father-in-law expired one and half years back. Denied that her husband stayed with her at her paternal house and it was only after the death of her father-in law that accused returned to his own home. That, she has not seen the second wife of the accused person. Denied that as her husband refused to stay with her at her paternal house, hence she has filed a false case against him.

10. P.W.2- Sri Kamal Das, he in his examination-in-chief deposed that informant is his daughter and accused is his son in law. That about a year back his daughter informed him that accused inflicted her with cruelty by putting unlawful demand of money. That, his daughter although filed a case, but later amicably settled the matter. Presently, his daughter is staying at his house with her child.

11. During his cross-examination he deposed that he does not remember when his daughter informed him about incident of cruelty. That his son in law stayed for a year at his house after his marriage with

his daughter. That, about a year ago the father of the accused passed away and since then he is staying at his own house. Denied that accused did not put any unlawful demand before his daughter.

12. P.W.3- Smt. Pompy Das, she in her examination-in-chief deposed that she is not acquainted with Dudumoni Das. She is acquainted with the accused person. That, as the mother of the accused person is an old lady, therefore, she sometimes goes and helps them with the domestic chores of the house. That, she has knowledge that Smt. Dudumoni Das was the wife of accused Ram Das.

Her cross-examination was declined by the defense side.

13. P.W.4- Sri Bipul Das, he in his examination-in-chief deposed that accused person is his neighbor. That, Dudumoni and accused used to occasionally quarrel and in one instance he heard that Smt. Dudumoni Das tore of the shirt of the accused. That, the accused for a year stayed at the house of Smt. Dudumoni Das at Biswanath Chariali. That, Ram Das returned to his house after the death of his father. That, now he is residing along with his mother and a girl.

14. During his cross-examination he deposed that he has no knowledge if Ram Das has married the girl who is staying in his house. That, the mother of Ram Das is an old and ailing lady.

15. P.W.5- Smt. Dashami Das, she in her examination-in-chief deposed that accused is her son and informant is her daughter-in-law. That, after the marriage of her son Ram Das went to stay with his wife at her paternal house. Later, after two years he returned only after the death of his father. That, P.W.5 is an ailing lady and to look after her Pompy Das used to visit her occasionally.

16. During her cross-examination she deposed that she went to the house of Smt. Dudumoni to bring her back to their house with Ranjit Bordoloi and Narayan Das, but she refused to come.

17. P.W.6- S.I. Alimuddin Ahmed, he in his examination-in-chief deposed that on 02.02.17 he was posted at Gohpur P.S. as an Attached Officer. That, informant Dudumoni Das filed an ejahar and thereafter S.I. Sukleswar Deka registered the case and endorsed him to

investigate the instant case. Thereafter, on the same day he went to the place of occurrence Bhimorjaan and after due inquiry he came to know that due unlawful demand of cash and kind and torture, Dudumoni Das went to her maternal house. Thereafter, he came to know from the witnesses that the accused person married another girl Pompy Das. That, after investigation he found sufficient materials against Ram Das and submitted charge-sheet U/S 498(A)/494 of I.P.C. against him. That, he prepared the sketch map and exhibited the same as Ext.2 and charge-sheet as Ext.3 and identified his signature thereon.

18. During his cross-examination he deposed that in the ejahar informant has not mentioned how much money was demanded from her by the accused person. P.W.1 has not stated that accused demanded T.V. and fridge. That he has not collected any material with respect to marriage of Pompy Das and accused person. That, Junaram Das is not forwarded as a witness in the instant case. That, he has not collected any agreement copy with respect to amicable settlement as stated by informant in the ejahar.

19. In the light of the above testimonies and on perusal of the materials on record, the following facts are observed:

I. The victim cum informant in the ejahar stated that her husband put unlawful demand of cash and kind. But, did not state any specific date or amount of money. Further, while she deposed as P.W.1 she stated that accused demanded T.V. and fridge. But, this fact is not corroborated by any other witness nor she stated the same in her previous statement.

II. Further, she only stated that she was inflicted with cruelty, but she has not described the nature of cruelty i.e. if she was physically tortured or she was verbally abused. No other witness has described the same including her father who only stated that his daughter informed she was demanded money and tortured.

- III. It is further observed that informant denied that the accused resided at her paternal house for a considerable period. But, the said fact is contradicted by her father who deposed as P.W.2, P.W.3 and P.W.5.**
- IV. That, informant further alleged that accused married another woman, but the fact is not established as there is none who has stated that Pompy Das is a married wife of accused. Further, from the evidence of P.W.3, P.W.4 and P.W.5 it reveals that Pompy Das was staying as a helper to the ailing mother of the accused person. On this point, the father of informant P.W.2 is completely silent.**
- V. Thus considering all the above, it is held that point of cruelty as defined U/S 498 A (b) of I.P.C that the accused being the husband of victim subjected her to cruelty by harming her with a view to coerce her to meet unlawful demand of cash and kind or any other relative of the victim with the same stands not proved and points requiring proof U/S 494 of I.P.C that accused married another woman during the lifetime of his wife stands not proved. As such, the benefit is to be forwarded to the accused person.**

III. Considering the above, I hold that prosecution has failed to prove the guilt of the accused person beyond all reasonable doubt that the accused person being the husband of the victim Smt. Dudumoni Das since their marriage in 2014 subjected her to cruelty as defined in Section 498(A) I.P.C and in 2017 married again, such marriage being void by reason of its taking place through the life-time of Smt. Dudumoni Das, his wife and thereby committed an offence U/S 494 of I.P.C.

20. In the result, the accused person Sri Ram Das is hereby acquitted on benefit of doubt U/S 498 (A)/494 of I.P.C. and set at liberty forthwith.

21. Bail bonds furnished are hereby extended for a period of 6 (six) months.

22. The case is disposed of on contest.

Given under my hand and seal of this court on this the
25th day of June, 2018 at Gohpur.

(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur

Dictated and corrected by me

(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur

APPENDIX

Prosecution Witness-

- P.W.1- Smt. Dudumani Das**
- P.W.2- Sri Kamal Das**
- P.W.3- Smt. Pompy Das**
- P.W.4- Sri Bipul Das**
- P.W.5- Smt. Dashami Das**
- P.W.6- S.I. Alimuddin Ahmed**

Defence Witness-

Nil

Prosecution Side Exhibits-

- Ext.1- Ejahar**
- Ext.2- Sketch Map**
- Ext.3- Charge Sheet**

Defence Side Exhibits-

Nil

(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur