

APPENDIX -12

<p>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR</p> <p>Present: Smt. Priyanka Saikia, JMFC</p> <p>(Date of the Judgment)</p> <p>22-11-2022</p> <p>(CASE NO- G.R. 2010/2017)</p> <p>(Details of FIR/Crime and Police Station)</p>	
Complainant	State of Assam or Sarbhenu Khatoon
Represented By	Smti. Bandana Baro, Learned APP
Accused person	Abdul Azid S/o- Makbul Hussain R/o- Kekokuli Nepali P.S.- Chariduar Dist- Sonitpur, Assam
Represented by	Smt. Upasana Mahanta

APPENDIX -13

Date of offence	18-04-2021
Date of FIR	19-04-2021
Date of charge sheet	30-04-2021
Date of charge frame	19-11-2022
Date of commencement of evidence	22-11-2022
Date on which judgment is reserved	22-11-2022
Date of judgment	22-11-2022
Date of the sentencing order, if any	NIL

Accused Details

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 438, Cr.P.C.
A-1	Abdul Azid	NIL	14-09-22	Section 498(A) of IPC	Acquitted	NIL	NIL

APPENDIX -14**LIST OF PROSECUTION / DEFENSE / COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sarbhanu Khatoon	Informant

B. Defense 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/ DEFENSE/ COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1	Ext. 1	Ejhar
2	Ext. 1(1)	Signature

B. Defense:

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

JUDGMENT

1. The informant, Sarbhanu Khatoon had lodged the ejahar in this case on 19.04.2021 alleging that she was the wife of A-1, and after some years past of their marriage, A-1 started to tortured her mentally and physically on demanding money and on 18.04.2021 at about 04.00 PM, A-1 attacked her through a wood battam. She rescued from him. Hence, this case.

2. Upon receipt of the ejahar the police registered Chariduar Police Station case no: 79/2021 under Section 498(A) of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against the A-1 under Section 498(A) of IPC.

3. A-1 entered trial and after furnishing the copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against A-1, charge under Section 498(A) of IPC was framed and was explained to him to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant, Sarbhanu Khatoon as PW-1 and also exhibited the ejahar. The statement of A-1 under Section 313 of Cr.P.C was dispensed with due to the lack of incriminating materials

against him. Defence declined to adduce evidence. I have heard the arguments for both sides.

5. Upon hearing and on perusal of the case record I have framed the following points for determination-

(I) Whether A-1 had committed mental and physical tortures upon the informant on demanding money and thereby committed an offence under Section 498(A) of IPC?

DISCUSSION, REASONS AND DECISION THEREOF:

6. In the course of the evidence adduced by the prosecution, it emerged that the informant, Sarbhanu Khatoon, who was examined as PW-1 has not supported the prosecution story that she has lodged this Ejahar for some quarrelled with her husband. She further stated she has filed the Ejahar due to some misunderstanding. Now she and A-1 living together peacefully with her 2 childrens. She stated that she does not want to proceed with the case and if A-1 is acquitted from the case she does not have any objection. PW-1 has proved her F.I.R. as Ext.P-1/PW-1 and her signature therein as Ext.P- 1(1)/PW-2.

7. In the given case, PW-1 categorically deposes that the Ejahar was lodged out of misunderstanding and that at present, she holds no grievance against A-1. Now, she is living with A-1 peacefully. Therefore, there is no specific incriminating material against A-1 in the testimony of PW-1.

8. Since the informant who launched the prosecution of A-1 has not incriminated A-1, the case of the prosecution has fallen flat on its face. Therefore, upon perusal of the evidence on record, the Court has reached the conclusion that Prosecution has not been able to prove its case against A-1 under Section 498(A) of IPC.

ORDER

9. Situated thus, A-1 is acquitted of the offence under Section 498(A) of IPC and set at liberty forthwith.

10. The bail bond of A-1 shall remain in force for 6 (six) months from today by virtue of Sec. 437A CrPC.

Given under my hand and seal of this court on this 22nd day of November, 2022 at Sonitpur, Assam.

(Priyanka Saikia, AJS)
Judicial Magistrate 1st Class
Sonitpur, Tezpur