

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS**

**Tezpur, Sonitpur**

**PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS**

Judicial Magistrate First Class,

Tezpur, Sonitpur

**G.R. Case No. 2570 of 2016**

**State**

***Versus***

**Bharat Deka**

**(Under section 498 (A) IPC)**

Charged framed on: 14.06.2018

Evidence recorded on: 14.06.2018

Statements recorded on: Dispensed with.

Arguments heard on: 14.06.2018

Judgment delivered on: 15.06.2018

Advocate for the Prosecution: Mr. Niranjan Saikia, Ld. APP

Advocate for the Accused: Ms. Bornali Borah

**J U D G M E N T**

**Prosecution Case in brief:**

**1.** Accused person stood for trial for committing offences u/s 498(A) IPC.

**2.** The prosecution story in brief as stated by the complainant in her written ejahar dated 08.08.2016 inter alia is that she was married to the accused as per religious rites and customs. However after her marriage she was meted out with mental and physical torture by the accused. On 30.07.2016 at about 8 pm the accused person after

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consuming alcohol started to scold the informant using obscene slang words and languages without any fault on her part and also physically assaulted her. Further it is stated in the ejahar that not being silent after the tortures meted out to her the accused person drove her out from her matrimonial house. She lodged an ejahar at Kacharigaon Outpost against the accused person and after the lodging of the ejahar, the accused person gave a false statement before the police that he will not repeat such acts in the future but on the day prior to the lodging of this ejahar the accused person at about 12 am at night broke the door of the rented house and physically assaulted the informant and also took away her jewelleries and Rs 5000/- (Rupees Five Thousand Only). The accused person also threatened to kill her if she informed this matter to others. Thereafter the accused person asked the informant to bring money from her natal home, failure to do so she was subjected to physical tortures. When the informant reported this matter to the family members of the accused they in return misbehaved her. It is also stated in the ejahar that the accused person is carrying a sharp weapon with him to stab the informant and her family members in order to cause their death. Hence this case.

**3.** On receipt of the ejahar, the same was received as Kachari Goan OP GDE No. 163 dated 08.08.2016 and was forwarded to officer in charge of Tezpur Police Station for registration which was registered as Tezpur P.S. Case no. 1368/16, u/s 498 (A) of the Indian Penal Code. Thereafter, I/O has launched the investigation of this case. After completion of investigation, I/O has finally submitted charge sheet u/s 498 (A) of the IPC against the accused person.

**4.** Thereafter, cognizance has been taken and summon have been issued to the accused person. On appearance of accused person, necessary documents required u/s 207 Cr.P.C have been furnished to him. On perusal of the materials on record formal charges u/s 498 (A) IPC is read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

**5.** Prosecution, in support of its case has examined only one (1) witness and also exhibited the FIR as Exhibit-1 along with the signature of informant as Exhibit 1(1).

**6.** Examination of accused u/s 313 Cr.P.C. is dispensed with since no incriminating materials are found against him.

**7.** I have heard the arguments advanced by the learned counsel for the accused and Ld. A.P.P. Perused the materials available in the case record. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

**POINTS FOR DETERMINATION:**

**Point No 1:** Whether the accused person being the husband of the informant subject her to mental and physical cruelty as alleged and thereby committed an offence punishable u/s 498 (A) IPC?

**DISCUSSIONS, DECISIONS AND REASONS THEREOF:**

**8.** Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case.

**P.W-1, Gitimoni Deka (informant)** has deposed in her evidence in chief that this incident took place in the year 2016 at her matrimonial house when an altercation took place between them and out of misunderstanding she lodged this case against the accused person. It is also deposed by P.W-1 that even after lodging the ejarah the parties are residing together and are maintaining a cordial relationship. Hence, she no longer intends to proceed with this instant case against the accused person.

**9.** Cross examination of P.W-1 is declined.

**10.** From the evidence of P.W-1, it reveals that, the informant is no more interested to proceed with this instant case against the accused person on the ground that this case was filed due to misunderstanding. It also reveals that the informant herself has refused to lead evidence against the accused person in support of the ejarah lodged by her. Thus, the informant has completely absolved the accused person from any wrong doing. The informant has also stated that she holds no objection if the accused person is acquitted from this case, which brings me to the conclusion that both the parties having amicably settled the matter outside the Court and in such a situation, interference of the Court is not warranted for. Hence I am of the considered opinion that prosecution has miserably failed to prove this case against the accused person.

**ORDER**

**11.** In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused person namely Bharat Deka. Accordingly

accused person is acquitted of the charges u/s 498 (A) levelled against him in the instant case.

**12.** Set the accused at liberty forthwith.

**13.** The bail bond for the accused is extended for a further period of six (6) months.

**14.** The case is disposed of on contest accordingly.

Given under my hand and seal on this 15<sup>th</sup> day of June, 2018 at Tezpur, Sonitpur.

(Ms. Sparsita Garg)  
Judicial Magistrate First Class  
Tezpur, Sonitpur

SONITPUR DISTRICT JUDICIARY

**APPENDIX**

**WITNESS OF PROSECUTION:**

P.W-1: Gitimoni Deka

**B EXHIBITS OF PROSECUTION:**

Exhibit 1: Ejahar

Exhibit 1 (1): Signature of the informant

**C. WITNESS OF DEFENSE: NIL**

**D. EXHIBITS OF DEFENCE: NIL**

(Ms. Sparsita Garg)  
Judicial Magistrate First Class  
Tezpur, Sonitpur

SONITPUR DISTRICT JUDICIARY