

**APPENDIX-12****IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR****TEZPUR**

Present:- Sri Nabajit Bhatta. AJS. MA, LL.B.  
 Chief Judicial Magistrate,  
 Sonitpur, Tezpur

[Date of the Judgment]  
**17.10.2022**

**[GR Case No-1606 of 2016]**

(FIR NO-329/2016 DATED-24.05.2016/CRUELTY AGAINST WOMAN CASE AND  
 DHEKIAJULI POLICE STATION)

COMPLAINANT :	STATE OF ASSAM OR Smt. Anita Hemrom, W/O:- Sri Boloram Hasda D/O:- Kamal Hemrom, R/O:- Hatigorh, P/S:- Rowta, Dist:- Udalguri (BTAD), Assam
REPRESENTED BY	Mr. Nalini Kanta Mishra, Ld. Addl. P.P Smt. Karabi Das, Asst. P.P.
ACCUSED PERSON	Sri Boloram Hasda, S/O:- Late Purna Hasda, R/O:- Dhologuri, P/S:- Dhekiajuli, Dist:- Sonitpur, Assam
REPRESENTED BY	Mr. Nilakhya Sarma, Ld. Senior Counsel

**APPENDIX-13**

Date of Offence	On or before 24.05.2016
Date of FIR	24.05.2016
Date of Charge Sheet	31.07.2016
Date of Framing of Charge	25.05.2018
Date of commencement of evidence	04.10.2018
Date on which judgment is reserved	10.10.2022
Date of Judgment	17.10.2022
Date of the Sentencing Order, if any	NIL

**ACCUSED DETAILS:**

Rank of the Accused	Name of the accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentenced Imposed	Period of Detention undergone during Trial for purpose of Sec. 428 Cr.P.C.
A-1	Sri Boloram Hasda	NIL	NIL	Sec-498(A) of IPC	Acquitted	NIL	NIL

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR::**  
**TEZPUR**

**G. R. Case No-1606 of 2016**

State of Assam

-Vs-

Sri Boloram Hasda

.....Accused Person

U/S-498(A) of I.P.C

*Present:*

*Sri Nabajit Bhatta AJS. MA, LL.B.*  
*Chief Judicial Magistrate, Sonitpur at Tezpur*

17<sup>th</sup> day of October, 2022

Mr. N. K. Mishra, Addl. P.P

..... Advocate for the State

Mr. N. Sarmah, Ld. Counsel

..... Advocate for the Accused

Date of Hearing : 04.10.2018,

Date of Argument : 10.10.2022

Date of Judgment : 17.10.2022

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

1. Prosecution story in brief is as follows that on 24.05.2016 the informant Smt. Anita Hemrom lodged an FIR before the O/C of Dhekiajuli Police Station to the effect that she got married with the accused around one and half year back as per Hindu rites and rituals. It is also stated that just after of her marriage, the accused person along with his family members started torturing her both mentally and physically. She also stated that the accused person also assaulted her at the time of her pregnancy and also drove her out from her matrimonial house. Finding no option she used to reside at her parental house wherein she gave a gild child around 03 months 24 days.

She further stated that the accused person did not accept the said gild child. Hence, the case.

2. The instant case was registered under section-498(A)/34 of I.P.C. and the police investigated the same. After completion of the investigation police submitted the charge-sheet against the accused person, namely, Sri Boloram Hasda under section-498(A) of I.P.C.
3. That Ld. Judicial Magistrate First Class in office took cognizance of the offence against the accused person. On appearance of accused person copies of relevant documents were furnished to the accused person and the charge under section-498(A) of I.P.C. was framed against the accused and the said charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined only one witness i.e. the informant in support of the case. Defence plea was total denial. Defence has adduced no evidence. Statement of accused person has been recorded under section-313 of Cr. P.C.
5. **POINTS FOR DETERMINATION:-**
  - (i.) Whether the accused person after marriage being the husband of informant, Smt. Anita Hemrom had subjected her to cruelty by torturing her both mentally and physically and thereby committed an offence punishable under section-498(A) of I.P.C.?
6. Heard argument from the Ld. Advocates of the both sides. On perusal of the evidence on record and case diary the very findings are as follows.

#### **DISCUSSION, DECISION AND REASONS THEREOF**

7. The prosecution opening the account of examining the informant, namely, Smt. Anita Hemrom as PW-1. The PW-1 has stated in her evidence-in-chief that she knows the accused person of this case and he is her husband. She further stated that she got married with the accused person socially in the year 2015 and thereafter, both were leading their conjugal life as husband

and wife at her matrimonial house situated at Dhologuri Balijan for about 03 months. She further stated that after one month of her marriage she became pregnant. Her husband did not stay at his house and he generally went to club. She also stated that the accused person did not accept her child who was in her womb. Her in-laws have no talking terms with her. The accused sent her to her parental house to bring NRC documents and after that the accused called her and told her not to return to her matrimonial house again. She also stated that when her sister took her to her matrimonial house the accused told her sister that "the accused don't love her sister so she bring her sister back to her house". Thereafter, a village meeting was held wherein the accused person assured that the accused never tortured her but after that the accused again tortured her. She also stated that presently she has a girl child and now residing at her parental house. She identified her ejahar as Ext-1 wherein she put her signature as Ext-1(1).

8. In cross-examination, PW-1 has stated that she stayed with the accused at her matrimonial house for about 03 months. She further stated that she has not mentioned about the incident which took place during the period of 03 months. She also stated that after 03 months of her marriage she is residing with her parental house till date. She stated that her daughter was born in the month of January, 2016. She also stated that she lodged the ejahar after four months of the birth of her girl child i.e. 24.05.2016. She stated that after one year of her returning from her matrimonial house she lodged the ejahar. She also stated that she has not mentioned the reason of delay of lodging the ejahar.
9. I have minutely perused the evidence on record including cross-examination of witness. In this case prosecution side has examined only the informant as PW-1. However, prosecution side after several attempt failed to examine the remaining witnesses in this case. Now let me see whether the prosecution side was able to fulfil all the ingredients of the sec.498 (A) I.P.C. so as to

bring the guilt of the accused person beyond reasonable doubt. PW-1 being the informant of the case has deposed that in the year 2015, she got married with the accused and led conjugal life for about 3 months and after one month of their marriage she became pregnant. Her husband did not stay at his house and he generally went to club. She also stated that the accused person did not accept her child who was in her womb. She stated that her in-laws have no talking terms with her. She further stated that the accused sent her to her parental house to bring NRC documents and after that the accused called her and told her not to return to her matrimonial house again. Thereafter, a village meeting was held wherein the accused person assured that the accused never tortured her but after that the accused again tortured her. She also stated that presently she has a girl child and now residing at her parental house.

10. In this case the prosecution has failed to examine the other witnesses. Thus, from perusal of the case record it is seen that none of the prosecution witness has support her case. Further, she was not examined by the M.O. Hence, it is found that there are no facts which could prove that the woman was subjected to cruelty in such a manner as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or it could be found that there was harassment caused to the woman in respect of demanding dowry to her.
11. The Hon'ble Supreme Court in **Manju Ram Kalita v. State of Assam (2009) 13 SCC 330**, held that "Cruelty" for the purpose of Section 498-(A) IPC is to be established in the context of Section 498 (A) IPC as it may be different from other statutory provisions. It should be determined by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide, etc. It is to be established that the woman has been subjected to cruelty continuously or at least in close proximity of time of

lodging the complaint. The Court further held that petty quarrels cannot be termed as "cruelty" to attract the provisions of Sec. 498(A) IPC.

12. Thus in this case upon perusal of the evidence of all the prosecution side and also on relying on the decisions of Hon'ble Supreme Court in the case of **Manju Ram Kalita v. State of Assam** it is found that ingredients of section 498(A) I.P.C. founds not to exist. From the evidence of prosecution is not found sufficient materials to hold the accused guilty U/S: 498(A) IPC.
13. Hence, considering all above discussions it appears that the prosecution has not proved the case against the accused person beyond reasonable doubt. Thus keeping view of what has been discussed above this court has no least hesitation that the prosecution has failed miserably to establish the guilt of the accused U/S: 498(A) of I.P.C. Hence, the accused person, namely, Sri Boloram Hasda is not found guilty.

**ORDER**

Accused person, namely, Sri Boloram Hasda is acquitted from the Charge under section-498(A) of I.P.C. and set at liberty forthwith.

Bail-bond of the accused person is extended for six months in view of section-437A of Cr PC.

Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 17<sup>th</sup> day of October, 2022 at Tezpur.

**(Sri Nabajit Bhatta)**  
**Chief Judicial Magistrate,**  
**Sonitpur: Tezpur**

Dictated and Corrected by me

Chief Judicial Magistrate,  
Sonitpur: Tezpur

**APPENDIX -14**  
**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Smt. Anita Hemrom	INFORMANT

**B. Defence Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**C. Court Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS****A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Ext-1/PW-1	Ejahaar
2	Ext-1(1)	Signature of PW-1

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**D. Material Objects:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

Chief Judicial Magistrate,  
Sonitpur: Tezpur