

IN THE COURT OF JMFC-20,
SONITPUR, TEZPUR

Present: **Shri Vishak Bhuyan,**
AJS

[Date of the Judgment]
15-11-2022

[PR Case No : 1017 of 2021]
[GR Case No : 856 of 2021]

(Details of FIR/ Crime and Police Station)

Complainant :	STATE OF ASSAM OR Aruna Bora
REPRESENTED BY	Learned A.P.P Sri Niranjan Saikia
ACCUSED PERSONS	A1. Sri Nipen Borah. S/o- Late Bipin Borah A2. Smt. Uma Borah W/o- Late Bipin Borah Both are resident of Vill- Erabari P.S- Jamuguri, Sonitpur
REPRESENTED BY	Ld. Counsel R. Boruah

FORM B

Date of Offence	16.03.2021
Date of FIR.	17.03.2021
Date of Charge-sheet	31.05.2021
Date of charge framed	12.09.2022
Date of commencement of evidence	12.09.2022
Date on which judgment is reserved	NIL
Date of the Judgment	15.11.2022
Date of the Sentencing Order, if any	NIL

Accused Details

Rank of the 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.
A1	Sri Nipen Borah	NA	18.07.2022	498(A) of IPC	Acquitted	NIL	
A2	Smti. Uma Borah	NA	18.07.2022	498(A) of IPC	Acquitted	NIL	

Form C**A. Prosecution**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Aruna Borah	Other witness (Informant)

B. Defence 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/ DEFENCE/ COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1	Exhibit P 1	Ejahaar
2	Exhibit P 1 (1)	Signature of informant

A. Defence:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Court Exhibits

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Material Objects:

Sr. No	Material Object Number	Description
NIL	NIL	NIL

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

TEZPUR, ASSAM

P.R CASE NO:1017 OF 2021

G.R CASE NO: 856 OF 2021

U/Sec 498(A) of the Indian Penal Code

State of Assam

.....PROSECUTOR

-Vs-

A1. Sri Nipen Borah

S/o- Late Bipin Borah

A2. Smt. Uma Borah

W/o- Late Bipin Borah

Both are resident of Vill- Erabari

P.S- Jamuguri, Sonitpur

.....ACCUSED PERSONS

PRESENT: VISHEK BHUYAN, LL.M, AJS
JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR

FOR PROSECUTION: LD. APP. Sri Niranjan Saikia

FOR DEFENCE: Ld. Counsel R Baruah

EVIDENCE RECORDED: 12.09.2022

ARGUMENTS HEARD ON: 15.11.2022

JUDGEMENT DELIVERED ON: 15.11.2022

JUDGMENT

1. The accused persons Sri Nipen Borah and Smti Uma Borah namely stood trial for offences punishable under Section 498(A) of Indian Penal Code (hereinafter IPC).

Information and Investigation

2. The genesis of this case has its roots with the lodging of Ejahar by informant Aruna Borah is on 16.03.2021 at about 4 PM her mother in law subjected her to physical torture and her husband also beat her up by using bamboo stick regarding some household matters. Again at

about 7 PM her husband beat her up by using torch light on her forehead. Hence this case.

3. The Ejahar was received and registered as Jamuguri P.S Case no. 39/2021 U/s 498(A) of IPC. The police after investigation submitted charge sheet against the accused persons under Section 498(A) of IPC.

Trial

4. Cognizance was taken of the Charge sheeted offences and processes were issued upon which the accused persons appeared and copies of the relevant documents were furnished to him in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as Cr.P.C). The particulars of offence were framed against the accused persons and the same has been explained to the accused persons, to which they pleaded not guilty and claimed to be tried.

5. In this case, the prosecution has examined the informant as PW-1. Considering testimony of the informant, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused persons u/s 313 Cr.P.C

dispensed with as the prosecution did not adduce any implicating evidence against them.

6. After hearing the learned Counsel of both sides and after perusal of the case record, I do hereby frame the following point of determination.

POINT FOR DETERMINATION

- i. ***Whether the accused persons being the mother in law of the informant and husband of the informant Aruna Borah subjected her to cruelty and thereby committed an offence punishable U/s 498(A) of IPC?***

PROSECUTION EVIDENCE **Evidence of the informant cum victim**

7. **P.W-1 Aruna Borah** states that she is the informant. She knows the accused persons. The accused person Nipen Borah is her husband and accused Uma Borah is her mother in law. A misunderstanding took place between them. Due to which she filed a ejarah. They have a son out of wedlock and presently they are residing together. **In her cross examination** she states that she has no objection if the accused persons are acquitted from the case.

DISCUSSIONS, DECISIONS AND REASONS
THEREOF

8. Upon perusal of the evidence it is seen that the case was lodged in due to some misunderstanding but since then the matter has been settled among them amicably and the informant does not wish to proceed with the case. Further, the informant has no objection if the accused persons are acquitted from this case.
9. As such the prosecution has failed to prove that the accused persons have committed the offences under section 498(A) of IPC beyond reasonable doubt.

ORDER

In light of the above, it is held that the prosecution has failed to prove the case U/s 498(A) of IPC against the accused person namely Nipen Borah and Uma Borah beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, their bail bond shall remain in force for a period of next 6 (six) months as provided by section 437A Cr.P.C.

Given in my hand and under the seal of this court on this the 15th day of November, 2022.

Typed by Me:

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur

APPENDIX

Prosecution Witness:

PW-1: Aruna Borah

Defence Witness:

NIL

Prosecution Exhibits:

1. Exhibit P 1- Ejahar
2. Exhibit P 1 (1)- Signature of informant.

Defence Exhibits:

NIL

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur.