

**APPENDIX-12**

<p><u>IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR</u></p> <p><u>TEZPUR</u></p> <p>Present:- Sri Nabajit Bhatta. AJS. MA, LL.B. Chief Judicial Magistrate, Sonitpur, Tezpur</p> <p>[Date of the Judgment] <b>09.11.2022</b></p> <p><b>[PR Case No-1001 of 2018]</b></p> <p>(FIR NO-1628/2018 DATED-04.08.2018/CRUELTY AGAINST WOMAN CASE AND TEZPUR POLICE STATION)</p>	
COMPLAINANT :	<p>STATE OF ASSAM</p> <p>OR</p> <p>Smt. Rosuy Raj, W/O:- Md. Arifuddin, D/O:- Sri Pal Raj R/O:- Lalmati, P/S:- Tezpur, Dist:- Sonitpur, Assam</p>
REPRESENTED BY	<p>Mr. Nalini Kanta Mishra, Ld. Addl. P.P Smt. Karabi Das, Asst. P.P.</p>
ACCUSED PERSON	<p>Md. Arifuddin, S/O:- Late Riajuddin, R/O:- Polofield near Mosque, P/S:- Tezpur, Dist:- Sonitpur, Assam</p>
REPRESENTED BY	<p>Mr. Imtiaz Ansari, Ld. Counsel Md. Iftekhar Ansari, Ld. Counsel</p>

**APPENDIX-13**

Date of Offence	After Marriage of the Complainant i.e. on 23.12.2014
Date of FIR	04.08.2018
Date of Charge Sheet	31.08.2018
Date of Framing of Charge	21.12.2019
Date of commencement of evidence	13.10.2022
Date on which judgment is reserved	31.10.2022
Date of Judgment	09.11.2022
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	Md. Arifuddin	NIL	NIL	Sec-498(A) of IPC	Acquitted	NIL	NIL

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

**P. R. Case No-1001 of 2018**

State of Assam  
-Vs-  
Md. Arifuddin

.....Accused Person

Under section-498(A) of I.P.C

*Present:*

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

09<sup>th</sup> day of November, 2022

Mrs. K. Das, Asst. P.P

..... Advocate for the State

Mr. I. Ansari, Ld. Counsel

..... Advocate for the Accused

Date of Hearing : 13.10.2022

Date of Argument : 31.10.2022

Date of Judgment : 09.11.2022

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

1. Prosecution story in brief is as follows that on 04.08.2018 the informant Smt. Rosuy Raj lodged an FIR before the O/C of Tezpur Police Station to the effect that she got married with the accused person on 23.12.2014 and after their marriage they resided in Pune, India. It is also stated that from the beginning of her conjugal life with the accused started to harass her and the accused used to scold her and many times assaulted her on minor issues. It is further stated that on 24.12.2018 she gave birth to girl child but that did not brought any change in the behaviour of accused person. She further stated that the accused person even without her knowledge

and consent the accused kept her ATM card of HDFC Bank and mobile phone from the beginning of her matrimonial life and made countless payments and transferred by using her ATM through net banking. It also stated that upon a query made by her to bank authority when she received the transaction details, she was shocked to see that her husband had spent Rs.5,30,000/- (Approx) from her account through net banking and cash withdrawal and when she asked the accused why he had spent her money without her knowledge then the accused person threatened to kill her. It is further stated that on 06.06.2018 when they came to Tezpur instead of taking her and their child to the house of accused, the accused warned her not to come with him to his house. Since then she has been residing with her parents in Lalmati. Hence, the case.

2. The instant case was registered under section-498(A)/420 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, Md. Arifuddin under section-498(A) of I.P.C.
3. That my Ld. Predecessor in office took cognizance of the offence against the accused person. On appearance of the 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 one number of witness in support of this case. Defence plea was total denial. Defence has adduced no evidence. Statement of the accused person has been recorded under section-313 of Cr. P.C.

5. **POINTS FOR DETERMINATION:-**

- (i.) Whether the accused person being the husband of informant, Smt. Rosuy Raj had subjected her to cruelty after marriage and harassed her where such harassment is with a view to coercing her to meet any unlawful demand for dowry or is on account of failure by her to meet such demand and thereby committed the offence of cruelty punishable u/s-498(A) of I.P.C.?
6. Heard argument from the Ld. Advocate of both the 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 witnesses first brought the witness, namely, Md. Arif @ Anish Akhtar as PW-1. The PW-1 has stated in his evidence-in-chief that he knows both the complainant and the accused person and they are both husband and wife. He further stated that complainant got married with the accused near about 10 years ago and after that they led conjugal life. He further stated that during their conjugal life, in the year 2018, an altercation took place between the complainant and the accused person and after that the complainant left the house of accused. He further stated that the family members of the complainant took her to her parental house. He could not say at present where the complainant has been resided.
8. In cross-examination, PW-1 has stated that after marriage they went Pune. He further stated that the complainant did not want to come back to her matrimonial house.
9. I have minutely perused the evidences on record including the cross-examination of the witness. In this case, PW-1 is independent witness. Further, in this case the prosecution side even after several attempts failed to bring the Complainant before his court. From the evidence of

PW-1 nothing incriminating materials found against the accused person. PW-1 in his evidence has stated that the complainant left her matrimonial house and he does not know where she has been residing. PW-1 also stated in his cross-examination that the complainant did not want to come back to her matrimonial house. So, this witness did not affirm that the informant-cum-victim was subjected to cruelty by her husband.

10. Thus, from the above evidence of PW-1, it is seen that his version is not the version corroborated with the contention of the ejahar lodged by the complainant. Hence, it is found that there are no facts which could prove that the complainant being 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. Although, the informant has stated in her FIR that she was physically assaulted by her husband for demand of dowry but none of the witness in his evidence has deposed that she was subjected to torture by her husband.
12. 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, Md. Arifuddin is not found guilty.

**ORDER**

Accused person, namely, Md. Arifuddin 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 09<sup>th</sup> day of November, 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	Md. Arif @ Anish Akhtar	OTHER WITNESS

**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

**B. 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>
NIL	NIL	NIL

**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

**B. Material Objects:**

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

Chief Judicial Magistrate,  
Sonitpur: Tezpur