

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]

06.12.2022

[PR Case No-961 of 2020]

(FIR NO-736/2020 DATED-07.05.2020/CRUELTY AGAINST WOMAN CASE AND
TEZPUR POLICE STATION)

COMPLAINANT :	STATE OF ASSAM OR Must. Rehana Begum, D/O:- Abdul Rahman, R/O:- Amolapam, P/S:- Tezpur, Dist:- Tezpur, Assam
REPRESENTED BY	Mr. Nalini Kanta Mishra, Ld. Addl. P.P Smt. Karabi Das, Asst. P.P.
ACCUSED PERSON	Md. Faridul Islam, S/O:- Md. Idrish Ali, R/O:- Amolapam, P/S:- Tezpur, Dist:- Sonitpur, Assam
REPRESENTED BY	Mr. Fajlul Haque, Ld. Counsel Mr. Biswajit Tamuli, Ld. Counsel Mrs. Ankita Dutta, Ld. Counsel

APPENDIX-13

Date of Offence	On or before 06.05.2020
Date of FIR	06.05.2020
Date of Charge Sheet	31.05.2020
Date of Framing of Charge	03.06.2022
Date of commencement of evidence	18.07.2022
Date on which judgment is reserved	21.11.2022
Date of Judgment	06.12.2022
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. Faridul Islam	NIL	NIL	Sec-498(A) of IPC	Acquitted	NIL	NIL

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

P. R. Case No-961 of 2020

State of Assam
-Vs-
Md. Faridul Islam

.....Accused Person

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

Present:

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

06th day of December, 2022

Mr. N. K. Mishra, Addl. P.P
Mr. F. Haque, Ld. Counsel

..... Advocate for the State
..... Advocate for the Accused

Date of Hearing : 18.07.2022, 02.09.2022 & 07.11.2022
Date of Argument : 21.11.2022
Date of Judgment : 06.12.2022

J U D G M E N T

1. Prosecution story in brief is as follows that on 06.05.2020 the informant Must. Rehana Begum lodged an FIR before the O/C of Tezpur Police Station through In-charge of Borghat Police Outpost to the effect that she got married with the accused Md. Faridul Islam around one and half year back and at the time of her marriage, her father had gifted so many things and also gifted a bike to the accused. However, the above-named accused sometimes demanded money from her and told her to bring the same from her parental house. It is also stated that she somehow managed to give

money of Rs.1,50,000/- to the above-named accused person and also built a "Pakka" house by her father and after that the accused started torturing her both mentally and physically by demanding dowry from her. It is further stated that sometimes the accused attempted to set fire on her by pouring kerosene oil. It is stated that the informant stated that presently she gave birth of a child at Nursing Home, Tezpur and the medical expenses of nursing home for delivery of her male child paid by her parents. Hence, the prosecution 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, Md. Faridul Islam 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 by my Ld. Predecessor to which he pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined as many as five (05) numbers of witnesses including the informant and the Investigating Officer 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, Must. Rehena Begum had subjected her to cruelty by torturing her both mentally and physically in demands of dowry of Rs.1,50,000/- on various occasions after marriage 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, Must. Rehena Begum 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 on 15.10.2018, she got married with the accused person and after that she led conjugal life at the house of accused. She also stated that since marriage after the accused started demand of dowry from her. She stated that the accused demanded money of Rs.1,50,000/- from her in connection of one case pending against his father Iddrish Ali. She further stated that at the time of their marriage, the accused person demanded bike, washing machine and inverter etc., and accordingly her parents gave a bike, washing machine and inverter etc to accused. That on 23.03.2020 one male child was born out of their wedlock. The accused repeatedly demanded money from her and also assaulted her. After born of her child, accused demanded the medical expenses of nursing home for delivery of her child and accordingly her mother paid to money to the hospital. When she paid money to accused, he and his parents used to good behaved to her but when she unable to paid money he and his parents used to tortured upon her. The accused also attempted to set fire on her by pouring kerosene oil. That since born of her child, she resided at her parental house. After that she had lodged the ejahar against the accused/husband. She identified her ejahar as P. Ext-1 wherein she put her signature as P. Ext-1(1).
8. In cross-examination, PW-1 has stated that in the ejahar she has not written regarding demand of money of Rs. 1,50,000/-for a pending case against the father of accused. She stated that she did not submit the purchase receipt of bike, washing machine, inverter with this case. She also stated that she did not mention the registration number of the motor cycle. She further stated

that one Saukat Ali resided near the house of her husband and one Abdul Mazid also resided at far distance from the house of accused. She knows Rabbul Hussain also. She stated that they know the incident which was happened with her. She also stated that in the ejahar she did not mention regarding demand of washing machine and inverter.

9. PW-2, Md. Saukat Ali has stated in his evidence-in-chief that the complainant and the accused person are husband and wife. That when the complainant was pregnant she went to her parental house, but she did not return back to the matrimonial house after birth of her son. He also stated that he does not know why the complainant lodged this case against the accused and why the complainant did not return to her matrimonial house. That the complainant also refused to come back to her matrimonial house.
10. In cross-examination, PW-2 has stated that as per his knowledge, the accused person did not demand any dowry from her. He further stated that the parents of the complainant took her when she was going to delivery of her child. He also stated that the accused and his parents did not misbehave the complainant. He stated that he along with accused went to the house of her parents but the complainant refused to come back. He also stated that the complainant asked the accused to reside with her at her parental house.
11. PW-3, Md. Abdul Mazid in his evidence-in-chief has deposed that the complainant and the accused are husband and wife. He further stated that when she was pregnant she went to her parental house, but she did not return back to the matrimonial house after birth of her son. She refused to come back to her matrimonial house.
12. In cross-examination, PW-3 has stated that they are his neighbours and he used to visit to their house. He stated that the parents of the complainant took her when she was going to delivery of her child and after delivery of her son, the parents of the accused went to bring her on several occasions but she refused to come back. He also stated that the complainant and her

parents asked the accused to reside with complainant at their house. He further stated that as per knowledge, the accused and his parents did not misbehave the complainant and demand any dowry from her.

13. PW-4, Md. Rabdul Hussain has stated in his evidence-in-chief that the informant and the accused are husband and wife. At present, the complainant is resided at her parental house. When she was pregnant she went to her parental house, but she did not return back to the matrimonial house after birth of her son. That the complainant and her parents asked the accused to reside with complainant at their house. She refused to come back to her matrimonial house.
14. In cross-examination, PW-4 has stated as per his knowledge, the accused and his parents did not misbehave the complainant and demand any dowry from her. He also stated that the parents of the complainant took her when she was going to delivery of her child and after delivery of her son, the parents of the accused and he also went to bring her to her matrimonial house but she refused to come back. He stated that the parents asked the accused to stay with the complainant at their house.
15. PW-5, SI Puwal Hazarika being the Investigating officer of this case has stated in his evidence-in-chief that on 06.05.2020, he was working as I/C at Borghat OP under Tezpur PS and on that day, one Rehana Begum lodged an ejahar at Borghat OP and it was forwarded to the O/C of Tezpur PS which was registered as Tezpur PS Case No-736/20 u/s-498(A) of IPC and he was endorsed to investigate the case. He further stated that during investigation, he recorded the statement of informant on the date of lodging the ejahar. Thereafter, on the next date, he proceeded to the place of occurrence as it was already late in the evening on the previous day and he had prepared sketch map and recorded the statement of witnesses. He identified the sketch map as P.Ext-2 wherein he put his signature as P.Ext-2(1). Thereafter, on completion of the investigation, he submitted charge sheet

against the accused person, namely, Md. Faridul Islam vide CS No-167/20 dated-31.05.2020. He also identified the charge sheet as P.Ext-3 wherein he put his signature as P.Ext-3(1).

16. In cross-examination, PW-5 has stated that statement of the informant was recorded on the date of the lodging the ejahar. He stated that on 07.05.2020 he had recorded the statements of Abdul Mazid, Saukat Ali and Rabdul Hussain. He further stated that the victim was not medically examined as the incident was occurred few days prior to lodging of the ejahar and there was no sign of injury on her person. He also stated that in her statement the victim did not mention about any date on which the accused had demanded dowry from the informant/victim. He stated that the informant had not produced any cash memo or receipt of the articles which were claimed to have demanded by the accused person. He admitted that the informant did not state in her statement that as there was a case pending against the father of the accused Rs.1,50,000/- had been demanded by the accused from her in connection with that case. He also stated that the informant did not submit any documents in connection with purchasing of the motor cycle in the name of the accused. He also stated that PW-2, PW-3 and PW-4 had not mentioned in their statement made before him regarding any incident of demand of dowry from the informant by the accused person.
17. I have minutely perused the evidences on record including cross-examination of witnesses. In this case prosecution side has examined as many as five numbers of witnesses including the informant and the Investigating Officer in support of this case.
18. 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 on 15-10-2018, she got married with the accused and led conjugal life with the accused. That the accused demanded money of

Rs.1,50,000/- from her in connection of one case pending against his father Iddrish Ali. She further stated that at the time of their marriage, the accused person demanded bike, washing machine and inverter etc., and accordingly her parents gave a bike, washing machine and inverter etc to accused. She also stated that the accused repeatedly demanded money from her and also assaulted her. She stated that after born of her child, accused demanded the medical expenses of nursing home for delivery of her child and accordingly her mother paid to money to the hospital. When she paid money to accused, he and his parents used to good behaved to her but when she unable to paid money he and his parents used to tortured upon her. That the accused also attempted to set fire on her by pouring kerosene oil.

19. Now let me see whether the other witnesses examined by the prosecution side have supported and corroborated the versions of PW-1 wherein she had claimed that the accused physically assaulted her for demand of dowry. PW-2 has deposed that the complainant went to her parental house but she did not return back to her matrimonial house. He does not know why the complainant lodged this case against the accused and why the complainant did not return to her matrimonial house.
20. PW-3 has deposed that when the complainant was pregnant she went to her parental house, but she did not return back to the matrimonial house after birth of her son. She further refused to come back to her matrimonial house. PW-4 has deposed that when the complainant was pregnant she went to her parental house, but she did not return back to the matrimonial house after birth of her son. That the complainant and her parents asked the accused to reside with complainant at their house. She refused to come back to her matrimonial house.
21. PW-4 has also deposed that when the complainant was pregnant she went to her parental house, but she did not return back to the matrimonial house after birth of her son. That the complainant and her parents asked the

accused to reside with complainant at their house and she refused to come back to her matrimonial house.

22. So it appears that the PW-2, PW-3 & PW-4 were not the eye witness of the incident of physical torture for demand of dowry upon the complainant by the accused. Further, they have deposed nothing any incriminating materials against the accused person.
23. Thus, from the above evidence of all the PWs, it is seen that none of the PWs version corroborated with each other and also it is found that there were lot of contradictions with the statement of each of the PWs. 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.
24. That the informant has also complained of assault by the accused person for demand of dowry in the FIR as well as in her evidence but she did not go before the doctor for medical examination.
25. That the PW-2, PW-3 & PW-4 have nowhere stated that the PW-1 was subjected to cruelty by the accused person rather they have deposed that when the PW-1 was pregnant she went to her parental house, but she did not return back to the matrimonial house after birth of her son. These witnesses have further stated that the PW-1 and her parents asked the accused to reside with her at their house and she further refused to return back to her matrimonial house. So, these witnesses did not establish the case of the prosecution that the PW-1 was subjected to cruelty by her accused husband for demand of dowry.
26. Even from the evidence of PW-2, PW-3 and PW-4 no doubt it could be found that there were quarrels between the accused and the complainant but upon

close scrutiny of all the evidences it is found that there were petty quarrels between them.

27. 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.
28. 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.
29. 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.
30. 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. Faridul Islam is not found guilty.

ORDER

Accused person, namely, Md. Faridul Islam 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 06th day of December, 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:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Must. Rehena Begum	INFORMANT
PW-2	Md. Saukat Ali	OTHER WITNESS
PW-3	Md. Abdul Mazid	OTHER WITNESS
PW-4	Md. Rabdul Hussain	OTHER WITNESS
PW-5	SI Puwal Hazarika	POLICE WITNESS

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	Ext-1/PW-1	Ejahaar
2	Ext-1(1)	Signature of PW-1
3	Ext-2/PW-5	Sketch Map
4	Ext-2(1)	Signature of PW-5
5	Ext-3/PW-5	Charge Sheet
6	Ext-3(1)	Signature of PW-5

B. Defence:

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

Chief Judicial Magistrate,
Sonitpur: Tezpur