

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
UDALGURI, BTAD, ASSAM.**

**Present: Sri Mridul Kumar Saikia.
Chief Judicial Magistrate,
Udalguri, BTAD, Assam.**

**G.R. CASE NO. 354 of 2019
(PRC NO. 334/2019)**

STATE

-VS-

SRI NARESH DEBNATH

..... Accused.

For the Prosecution : Mr. M. Khakhlari, Learned Addl. P.P.

For the Defence : Mr. M.C. Narzari, Learned Advocate.

**Date of Evidence recorded : 27-05-19, 14-06-19 and
30-07-2019.**

Date of Argument : 07-08-2019.

Date of Judgment : 17-08-2019.

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

J U D G M E N T

1. The prosecution case, in brief, is that the complainant Smt. Moon Debnath lodged an ejahar before the Officer-in-Charge of Tangla Police Station on 21-04-2019 stating inter-alia that for last several months her husband continuously subjected her both physical and mental torture on demand of dowry and specifically, on 02-04-2019, during her pregnancy, at about 10

P.M. her husband without any rhyme or reason, brutally assaulted her right and left by an iron rod causing grievous injury on her body and tried to kill her by putting the gas on of the LPG cylinder.

2. On receipt of the ejahar to the effect aforesaid, the Officer-in-Charge of Tangla Police Station registered Tangla PS case no. 49/2019 U/S 498(A) I.P.C. and on completion of investigation, the I/O submitted the charge-sheet against accused Sri Naresh Debnath alleging commission of offence U/S 498(A) IPC .
3. Cognizance of offence was taken under Section **190 (1) (b)** of the Cr.PC. The processes were issued for causing appearance of the accused before the Court. Accordingly, the accused appeared before this court to answer the charge leveled against him and then he was furnished with copies of all relevant papers and documents in compliance with the provisions of Sec. 207 Cr.P.C. Finding a prima-facie case for commission of offence U/S 498(A) I.P.C. the charge has been framed U/S 498(A) I.P.C., read over and explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
4. In order to bring home the charge, the prosecution examined as many as six (6) PWs in the form of:

PW 1 Smt. Moon Debnath(Complainant)

PW 2 Smt. Ranu Debnath

PW 3 Sri Nirmal Chanda

PW 4 Sri Amal Chanda

PW 5 Smt. Manika Paul and

PW 6 Smt. Mala Chanda.

The prosecution has exhibited the following document as

Ext. 1 – Ejahar.

5. After recording the prosecution witnesses, the accused was examined U/S 313 Cr.P.C. All the incriminating circumstances which appeared in evidence against the accused were put to him for his explanation. The accused denied all the circumstances and pleaded his innocence. Further, the accused declined to adduce any evidence in defence.

6. I have heard the argument put forward by the learned Addl.P.P. and the learned advocate appearing for the accused. I have also carefully gone through the entire evidence available with the case record.
7. **POINT FOR DETERMINATION:** To ascertain the guilt of the accused person on the charge leveled against him, the following point is sorted out for decision in the present case:

Whether the accused being the husband of the victim Smt. Moon Debnath, during his conjugal life, subjected her to cruelty both physical & mental for some illegal demand of dowry and specifically on 02-04-2019 at about 10 P.M. assaulted her brutally?

DISCUSSION, DECISION AND REASONS THEREOF :

8. To decide the above point, let us make a scrutiny of the evidence led by the prosecution in support of its case. P.W.1 Smt. Moon Debnath, the victim of the case has stated in her deposition that the accused is her husband. Prior to two and half years ago, she got married with the accused. Only about one month after marriage, she led her conjugal life happily. Thereafter, her husband went outside Assam for the sake of work and then her mother-in-law often used to quarrel with her and hence, she left for her paternal house and since then, she has been living with her parents. The accused neither take any information nor gave any maintenance during her pregnancy. Even, her husband did not come to her during giving birth of her girl child who presently attains two year old. Once her husband took her back to his house while her girl attained five months. After staying there for one month, she again returned back to her parents' house. Though he brought back her again, but the same was repeated and due to his torture she returned back to her parental house. It is further stated that she became pregnant of eight months and hence, she filed this case against the accused. She has proved her ejahar Ext. 1 by identifying her signature Ext. 1(1) thereon.

9. In cross-examination PW 1 stated that she did not mention the cause of delay in filing the ejahar. They had love affair prior to marriage. She did not file any ejahar after returning to her parental house for the first & second time. Presently, though the accused expressed his willingness to bring her back to his house, but she is reluctant to go with him. She has denied some suggestions put to her by the defence.
10. P.W.2 Smt. Ranu Dey, the mother of the complainant has stated that after one month of marriage, her son-in-law left for work at Chennai leaving her daughter at her matrimonial house. During her loneliness, her mother-in-law used to abuse her for which she left for her parent's house and during the stay at her home, she gave birth of a girl child. While the girl attained five months, her son-in-law came and took her daughter to his house. Due to often quarrel with them, the complainant returned back to her house. Thereafter, for the second time, though the accused took her again to his house, this time too she was subjected torture by them and chased her away from their house and since then, the complainant has been living with them with her daughter.
11. In cross-examination, PW 2 stated that the complainant tied her nuptial knot with the accused due to having love affair with him. After departing her son-in-law to Chennai, her daughter returned to her house. She does not know whether the accused wanted to bring back her daughter to his house. PW 2 has denied some suggestions put to her by the defence.
12. PW 3 Sri Nirmal Chanda stated that the complainant is his niece. After one month of marriage of his niece, the accused left for Chennai for work and then the mother-in-law of his niece often used to abuse her to which she returned back to her parental house. Thereafter, though the accused brought his niece two times back to his house, but due to quarrel between them his niece returned back to her parents' house.
13. In cross- examination, PW 3 stated that he could not know the reason behind their quarrel.
14. PW 4 Sri Amal Chanda, another maternal uncle of the complainant stated that about two and half years ago his niece got married with the accused and after one month of their marriage, the husband of his niece went for work to Chennai and during that period, her mother-in-law used to abuse

his niece to which he left for her parents' house. Thereafter, though the accused brought his niece two times back to his house, but due to quarrel between them his niece returned back to her parents' house. One day after 'Holi' he along with the mother of the complainant went to the house of the complainant wherein they found the complainant weeping and on being asked she told that the husband assaulted her. Then while the mother of the complainant asked the accused as to why he assaulted the complainant physically, then she too was given a fist blow on her mouth to which her teeth was broken. Then on his interception, the accused left her.

15. In cross-examination PW 4 denied that the accused did not assault the complainant and they only had assaulted the accused by calling him and deposed falsely against the accused in favour of their niece.
16. PW 5 Smt. Manika Paul stated that about two and half years back the accused and the complainant tied their nuptial knot and as a result of their wedlock they had one boy and one girl child. She came to know that both the parties had some quarrel wherein the complainant assaulted the accused; but she didnot know the reason behind their quarrel.
17. In cross-examination, PW 5 stated that she saw the complainant assaulting to the accused. Prior to the occurrence, the complainant chased out the family members of the accused.
18. PW 6 Smt. Mala Chanda stated that about two years back his niece got married with the accused and during their conjugal life, they had some differences. He sometimes visited the house of the accused to know about their position at the house of the accused. He came to know that as and when return from his working place Guwahati, the accused, for any reason, made quarrel with the complainant and assaulted her. About two-three months back the accused assaulted Smt. Moonmon and hence she left for her parent's house and since then she had been living with her parents. Till then, the accused did not visit to bring back the complainant.
19. In cross examination, PW 6 stated that the distance from his house to the house of the accused was about one kilometer away. After her marriage, his niece Moonmon stayed at her parent's house. Once Smt. Moonmon was driven out from her matrimonial house by her mother-in-law, brother-in-law

and sister-in-law. He is ignorant about the reason behind the quarrel between the complainant and the accused.

20. Out of the six prosecution witnesses, except the independent witness PW 5 Smt. Manika Paul, the others are the complainant and her relatives which are found to be the interested witnesses only. She is the only independent eye witness who saw the act of assault by the complainant to the accused and prior to this occurrence, the complainant chased away the family members of the accused person.
21. For convenience, let us go through the provisions of offences alleged against the accused persons. **Section 498-A IPC** reads as under:

*"498A. Husband or relative of husband of a woman subjecting her to cruelty. - Whoever, being the husband or the relative of the husband of a woman, subjects such woman **to cruelty** shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

*Explanation.-For the purposes of this section, "**cruelty**" means- (a) any wilful conduct which is of such a nature 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*

*(b) harassment of the woman where such harassment is with a view to **coercing her** or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."*

22. All the witnesses are mum about any kind of demand made by the accused person or his family members to the complainant or fail to depict any such kind of "Cruelty" upon the complainant. The content of the evidence led by the witnesses does not attract the provision of the section 498(A) IPC to guilt the accused with the alleged offence. Rather, from their versions, it is found that their evidences are nothing but concoction and fabrication only.

23. Thus, from the above appraisal, appreciation of evidence on record, and the application of law, I find that the prosecution has failed to establish the offence U/S 498(A) I.P.C. against the accused beyond all reasonable doubt. In the result, the accused is found not guilty U/S 498(A) I.P.C. Hence, the accused Sri Naresh Debnath is acquitted from the charge U/S 498(A) I.P.C. and he is set at liberty forthwith.
24. The bail bond shall remain in force for the next six months as per provisions of Section 437(A) Cr.P.C.

Given under my hand and seal of this court on this 17th day of August, 2019 at Udalguri, BTAD, Assam.

Dictated and corrected by me:

(Mridul Kumar Saikia)
Chief Judicial Magistrate
Udalguri, BTAD, Assam.

(Mridul Kumar Saikia)
Chief Judicial Magistrate.
Udalguri, BTAD, Assam.

APPENDIX

- A. Prosecution witnesses : PW 1 Smt. Moon Debnath(Complainant)
PW 2 Smt. Ranu Debnath
PW 3 Sri Nirmal Chanda
PW 4 Sri Amal Chanda
PW 5 Smt. Manika Paul and
PW 6 Smt. Mala Chanda.
- B. Defence witness : Nil
- C. Documents exhibited : Ext. 1 – Ejahar.

(Mridul Kumar Saikia)
Chief Judicial Magistrate
Udalguri, BTAD, Assam.

Transcribed and typed by me:

(T. D. Sarma/Stenographer)