

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

**G.R. CASE NO. 67 of 2019**  
**(PRC NO. 279/2019)**

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

**STATE**

**-VS-**

**SRI DHIREN BARMAN**

**..... Accused.**

**For the Prosecution : Mr. M. Khaklary, Ld. Addl. P.P.**

**For the Defence : Mr. Rameshwar Das, Ld. Advocate.**

**Date of Evidence recorded : 07-08-2019 & 21-08-2019.**

**Date of Argument & Judgment : 29-08-2019.**

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

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

1. The victim of the case is Smt. Reena Barman.
2. The prosecution case, in brief, is that the complainant Smt. Reena Barman lodged an ejahar before the Officer-in-Charge of Tangla Police Station on 20-01-2019 stating inter-alia that the complainant and her son was subjected both physical and mental torture by her accused husband on illegal demand of money and in her inability to fulfill his demand, he destroyed all their household properties and set his own house ablaze on fire. It was also stated that the accused tried to commit suicide several times by hanging himself.

3. On receipt of the ejahar to the effect aforesaid, the Officer-in-Charge of Tangla Police Station registered Tangla PS case no. 08/19 U/S 498(A) I.P.C. and on completion of investigation, the I/O submitted the charge-sheet against accused Sri Dhiren Barman alleging commission of offence U/S 498(A) I.P.C.
4. 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 levelled against him and on his appearance he was furnished with the 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 U/S 498(A) I.P.C. was framed, read over and explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
5. In order to bring home the charge, the prosecution examined as many as five(5) witnesses in the form of :

PW 1- Smt. Reena Barman (complainant).

PW 2- Sri Madan Jabedar.

PW 3- Sri Babul Dey

PW 4- Smt. Gita Dhar

PW 5- (I.O.) A.S.I. Pratap Nath.

6. 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.
7. 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.

8. **POINT FOR DETERMINATION:** To ascertain the guilt of the accused on the charge levelled against him, the following points are sorted out for decision in the present case:

Whether the accused being the husband of the victim Smt. Reena Barman of Bor Tangla under Tangla Police Station, during conjugal life, since after marriage, subjected her to cruelty both physical & mental for some illegal demand of money and brutally assaulted her and her son?

**DISCUSSION, DECISION AND REASONS THEREOF :**

9. 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. Reena Barman is the complainant. She has deposed that the accused is her husband. They had tied their nuptial knot about twelve years ago. After marriage, her husband used to torture her both physically and mentally without any rhyme or reason. During that period, the accused tried to commit suicide himself two times and set his own house ablaze on fire. She also stated that everyday, she had to give the accused rupees 20-30 and in case of her failure, the accused used to brutally assault her physically. Finding no other alternative, she filed the ejahar against him by putting her thumb impression.
10. In cross-examination PW 1 stated that she didnot mention any of the dates related to the incident and she also not mentioned in her statement before the police about the physical torture committed to her by her husband. She even does not know where her husband works and presently, she is staying at her matrimonial house. She didnot mention in her ejahar about the reason for causing delay in filing the complaint against her husband. She denied the fact that she used to fight with her husband for which her husband tried to attempt suicide several times.
11. PW2 Sri Madan Jabedar in his deposition stated that both the accused and the complainant belong to their village. When the accused set his house

ablaze on fire, he extinguished the fire by pouring water. The accused often used to harass the complainant by physically assaulting her.

12. In cross-examination, PW2 stated that he did not know anything other than a blazing his own house by the accused himself.
13. PW3 Babul Dey stated that about seven months ago, one afternoon, the accused caused damage all his household articles when he had an altercation with the complainant. But he did not know the reason behind their quarrel.
14. In cross-examination PW 3 stated that he did not see the occurrence; he only heard about it.
15. PW 4 Smt. Gita Dhar in her deposition stated that about seven months ago, one afternoon, there was an altercation between the complainant and the accused for which the accused caused damage all his household articles. The accused spends his life idly and often used to demand money from his wife(complainant). She further stated that if the complainant failed to fulfill the demand of the accused, he used to harass and committed torture to the complainant physically.
16. PW 4, in her cross-examination denied the fact that in the statement made before the police, she did not mention about the demand for money and physical torture committed by the accused to the complainant. The complainant still staying at her own house.
17. PW5 (I.O.) A.S.I. Pratap Nath stated that the Officer-in-Charge of Tangla Police Station endorsed him for investigation of the case after receiving the ejahar from the complainant Smt. Reena Barman and he conducted the preliminary investigation of the case and due to his transfer to other station, he handed over the case diary to the Officer-in-Charge of Tangla Police Station and Sri Turan Chandra Nath was endorsed for remaining investigation after completion of investigation, Turan Chandra Nath submitted the charge-sheet against the accused alleging commission of offence U/S 498(A) I.P.C. He proved Ext. 1 sketch map and Ext. 2 charge-sheet by identifying his signature Ext. 1(1) & Ext. 2(1) the signature of Sri Turan Chandra Nath thereon.

18. In the cross-examination PW 5 stated that he seized nothing regarding the occurrence. He did not forward the complainant for conducting medical examination. There was no any expression in the statement of the complainant about any harassment committed by the accused on demand of dowry.
19. Out of five prosecution witnesses PW 1 is the complainant, PW 5 is the government witness(I.O.) and the other remaining three witnesses are the independent witnesses wherein PW 3 Babul Dey is the hearsay witness. To attract the provisions of Section 498(A) I.P.C., the prosecution must prove its ingredients to implicate the accused with the alleged offence. 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."*

20. Unveiling the evidences of the PWs, it is apparent from the version of the PW 1 that the accused subjected her to physical torture without any rhyme or reason, he made attempt to commit suicide several times and he did set or tried to set his own house on fire. After twelve years of marriage, the complainant filed this case against the accused alleging mental & physical harassment committed by her husband to her. In marital life, some family

disputes or differences may exist to some extent between the couple and mutual understanding between them is a must to curb such differences for the sake of their happy conjugal life. Bearing this in mind, after scrutinizing the evidence led by the prosecution in this case, we are of the opinion that no such demand or cruelty is established by the complainant or any other independent witnesses. Rather, it is found from the cross portion of her evidence of the complainant that she was still living at her matrimonial house with the accused. Hence, we are of the opinion that the allegation levelled against the accused is nothing but false, fabrication & concoction and we cannot incriminate the accused with the alleged offence.

21. 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 Dhiren Barman is acquitted from the charge U/S 498(A) I.P.C. and he is set at liberty forthwith.
22. 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 29<sup>th</sup> 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. Reena Barman (complainant).  
PW2- Sri Madan Jabedar.  
PW3- Sri Babul Dey  
PW4- Smt. Gita Dhar  
PW5- (I.O.) A.S.I. Pratap Nath.
- B. Defence witness : Nil
- C. Documents exhibited : Nil.

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

Transcribed and typed by me:

(T. D. Sarma/Stenographer)