

**IN THE COURT OF JUDICIAL MAGISTRATE
FIRST CLASS, UDALGURI.**

Present: Smt. Taslima Firdosa, J.M.F.C., Udalguri.

G.R. NO. 917/2019 (PRC No.530/20)

U/S 498A of I.P.C.

STATE OF ASSAM

Vs

1. Sri Padum Rajbangshi.

.....Accused Person.

Advocate Appeared:-

For Prosecution: Smti. D. Deka, A.P.P.

For Defence: Smti. L. Das.

Charge Framed on: 10.02.2021.

Evidences recorded on: 20.04.2021, 29.12.2021.

Arguments heard on: 29.12.2021.

Judgment delivered on: 29.12.2021.

J U D G M E N T

1. Prosecution story in brief is that Smti. Babita Rajbangshi lodged an F.I.R. on 10/09/2018 before the Dimakuchi P.S., alleging inter-alia that the informant got married to Sri Padum Rajbangshi around 9 months ago in the Court and later on got socially married. Ever since the day of marriage Padum Rajbangshi, her husband and her mother-

in-law have been harassing her physically and mentally demanding dowry. On 18/08/2019 at around 2.30 P.M. the accused persons asked her to bring money from her parental home. When she objected the accused persons threw away her clothes on the road and assaulted her and grabbed her by her hair and threw her out of the house. At present she is staying at her parental house. It is mentioned that as she waited for a village meeting so there has been a delay in filing the F.I.R.

2. On receipt of the F.I.R., Dimakuchi P.S. Case No.111/2019 was registered and investigated into. No seizure was made during investigation of the case. On completion of the investigation the Investigating Officer (here in after referred as I.O.) has submitted the Charge sheet U/S-498A of Indian Penal Code (here in after referred as I.P.C.) against Sri Padum Rajbangshi.
3. On his appearance before the Court copy of relevant documents were furnished to him as per sec 207 Cr.P.C. Upon hearing both the sides and after perusal of the Case Diary, grounds for presuming that the accused person Sri Padum Rajbangshi had committed offence U/S 498A of I.P.C. was found against him. Accordingly, formal charge under the said section was framed against the accused person. The particulars of the offence U/S- 498A of I.P.C. against Sri Padum Rajbangshi was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. During the trial prosecution side examined 5 prosecution witnesses (P.W.s). The examination of the accused person U/S 313 Cr.P.C. is recorded in separate sheets where he has stated that he is no way connected to this case and only due to some misunderstandings his wife has filed this case against him. That he had no fault in this entire incident and he had prayed that he should be acquitted from this case.

5. I have heard arguments for both the sides and has also perused the case record.

6. **POINTS FOR DETERMINATION:-**

I. Whether the accused person Sri Padum Rajbangshi on 18/08/2019 at No.2 Borangajuli, P.S.- Dimakuchi, District- Udalguri being the husband of Smti. Bobita Rajbangshi subjected her to cruelty by doing physical and mental torture and thereby committed an offence punishable under section 498A of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:-

I have appreciated all the evidence and materials on record in order to decide the above mentioned points.

7. P.W.1, Sri Ramesh Deka has deposed that he knows the informant and the accused person, the accused person is his neighbour/relative. PW-1 used to stay at Guwahati and he has no knowledge whether any dispute is going on between the informant and the accused person.

The cross examination of PW-1 is declined.

8. P.W.2, Sri Bhupen Deka has deposed that he knows the informant and the accused person, the accused person is his neighbour. PW-2 knows that the informant left the house of the accused person 6 months ago and apart from this he has no knowledge whether any dispute is going on between the informant and the accused person.

In his cross examination he had stated that he has not witnessed any kind of dispute between the informant and the accused person.

9. P.W.3, Sri Gautam Malakar has deposed that he knows the informant and the accused person, the accused person is his neighbour. PW-3 had just heard from the villagers that some altercations used to occur between the informant and the accused person.

In his cross examination he had stated that he had not witnessed any kind of dispute between the informant and the accused person.

10. P.W.4, Smti. Babita Rajbangshi has deposed that she is the informant of this case. That the accused person is her husband. That around 3 years ago they got married. That around 2 years ago due to some misunderstanding relating to some domestic problems a minor altercation occurred between them. That so PW-4 had filed this case out of rage and anger against her husband. That they have now amicably settled the matter between them and

she does not want to continue with this case. The F.I.R. was exhibited as Ext.1 wherein Ext.1(1) is her signature.

In her cross examination she had stated that she has no objection if the accused person is acquitted from this case.

11. P.W.5, Sri Premankur Hazarika has deposed that Babita Rajbangshi filed an Ejahar on 10/09/2019 at around 2.20 PM at Dimakuchi police station. PW-5 registered the instant case as he was the O/C at that relevant time. PW-5 took the charge of investigation on same day itself. PW-5 interrogated and recorded the statements U/S- 161 Cr.P.C. of the informant/the victim in the police station itself. PW-5 had visited the place of occurrence, prepared the sketch map and recorded the statements U/S- 161 Cr.P.C. of the witnesses Ramesh Deka, Bhupen Deka and Gautam Malakar. That on the same day PW-5 went to search the accused person in his house premises however he could not find the accused person. That on 11/09/2019 PW-5 again went to search the accused person in his house premises and found him and apprehended him to the police station and then arrested him and then produced him before the Court. That after that PW-5 recorded the statements U/S- 161 Cr.P.C. of the accused person. PW-5 was then transferred and he handed over the charge to O/C Sri Gagan Deka. The sketch map was exhibited as Exbt-2 wherein Ext. 2(1) is his signature. The charge sheet is exhibited as Ext.3

wherein Ext.3(1) is the signature of Sri Gagan Deka which he could identify.

In his cross examination he had stated that he did not refer the victim for her medical. PW-5 did not give any prayer for recording the statement of the victim U/S- 164 Cr.P.C.

From the appreciation of the evidences on record it appears that P.W.-1 and P.W.-2 had no knowledge whether any dispute was going on between the informant and the accused person. P.W.-3 had stated that he had heard that some altercations used to occur between the informant and the accused person and as it is a hearsay evidence his statement is discarded on the doctrine of hearsay evidence under Sec 60 of the Indian Evidence Act, 1872. Though charge-sheet had been submitted in this case against the accused person however the P.W.-5 has stated in his cross-examination that the informant was not referred for her medical. Also no prayer for recording her statement U/S- 164 Cr.P.C. was given in this case. Moreover, the prime witness/who is the informant of this case has not supported the contents of the F.I.R. and from the evidence given by the informant and 4 other prosecution witnesses as well, it is apparent that the prosecution has failed to assert any credible evidence to attract the ingredients of the section 498A of IPC charged against the accused person. Thus the point viz. Point No.I is decided in negative.

12. In view of the aforesaid discussions, this Court holds that the prosecution has failed to prove the charge against the above named accused person beyond reasonable doubt and as such Sri Padum Rajbangshi is acquitted from the charge U/S- 498A of I.P.C. and is set at liberty forthwith.

Order

13. **The accused person Sri Padum Rajbangshi is acquitted from the charge U/S- 498A of I.P.C. and he is set at liberty.**
14. The bail bond for the accused person Sri Padum Rajbangshi shall be in force for next six (6) months.
15. Judgment is pronounced in open court.
16. Case is disposed of on contest.

Given under my hand and seal of this Court on this the 29th day of December, 2021 at Udalguri.

Judicial Magistrate 1st Class,
Udalguri.

APPENDIX

1. **Prosecution Witnesses:-**

P.W.1: Sri Ramesh Deka.

P.W.2: Sri Bhupen Deka.

P.W.3: Sri Gautam Malakar.

P.W.4: Smti. Babita Rajbangshi.

P.W.5: Sri Premankur Hazarika.

2. **PROSECUTION EXHIBITS:-**

Exbt.1: F.I.R.

Exbt.2: Sketch map.

Exbt.3: Charge sheet.

3. **DEFENCE WITNESSES:-**

NONE

4. **DEFENCE EXHIBITS :-**

NONE.

Judicial Magistrate 1st Class,

Udalguri.