

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

**G.R. CASE NO. 794 of 2019
(PRC NO. 1182/2019)**

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

STATE

-VS-

MD. IMDADUL ISLAM

..... Accused.

For the Prosecution : Mr. A. Basumatary, Ld. Addl. P.P.

For the Defence : Mr. T.C. Boro, Ld. Advocate.

Date of Evidence recorded : 12-03-2020.

Date of Argument & Judgment : 12-03-2020.

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 Musst. Aliza Khatoon lodged an ejahar before the I/C, Bhakatpara Patrolling Post under Kalaigaon Police Station on 16-08-2019 stating inter-alia that she got married with the accused about 8-9 years back and have three(3) children. Since after her marriage, her husband along with his father had been subjecting her both physical and mental torture on demand of dowry. It is also stated that several times, her husband exceeding the limit of torture assaulted her brutally and threatened to get an end of her life and on 11-08-2019 at about 7 P.M. her husband assaulted her brutally on demand of Rs. 1000/- (Rupees one thousand) and threatened to kill her by stabbing by a knife, drove her out from her matrimonial house and threw her on the road near her parent's house. It

was also stated that due to sustaining injury on her abdomen, she had undergone treatment and hence the delay was caused in filing the ejahar.

2. On receipt of the ejahar to the effect aforesaid, the I/C Bhakatpara Patrolling Post made a GD Entry bearing Bhakatpara Patrolling Post GD Entry No. 242 dated 16-08-2019 and forwarded the same to the Officer-in-Charge of Kalaigaon Police Station for registering a case and investigate the matter. Accordingly, the Officer-in-Charge of Kalaigaon Police Station registered Kalaigaon PS case no. 60/2019 U/S 498(A) I.P.C. and on completion of investigation, the I/O submitted the charge-sheet against accused Md. Imdadul Islam alleging commission of offence U/S 498(A) I.P.C. with a prayer for discharging the co-accused Md. Tufanu Seikh as no material was gathered against him.
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 levelled 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 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.
4. In order to bring home the charge, the prosecution examined only the complainant as:

PW 1 – Musst. Aliza Khatoon.

The prosecution has exhibited the following document in the form of:

Ext. 1 – Ejahar.
5. After recording the prosecution witness, 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 Additional 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 on the charge levelled against him, the following point is sorted out for decision in the present case:

Whether the accused being the husband of the complainant Musst. Aliza Khatoon, during their conjugal life, since after the marriage subjected her to cruelty both physical & mental for some illegal demand of dowry and more specifically on 11-08-2019 at about 7 P.M. at village Morabegapar, Bhakatpara under Kalaigaon Police Station brutally assaulted and drove her hour from her house?

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 Musst. Aliza Khatoon is the complainant. She has deposed that the accused is her husband. Fifteen years ago they tied their nuptial knot. About six months back, due to misunderstanding on some family matters with her husband and being emotional, she lodged the ejahar against her husband. Presently, they have resolved their differences and are living peacefully as husband and wife. She expressed her unwillingness to proceed with the case further. She has proved her ejahar Ext. 1 by identifying her signature Ext. 1(1) thereon.
9. In cross-examination PW 1 stated that she has no objection, if the accused gets acquitted in the case.
10. It appears that the instant case arose out of misunderstanding only as admitted by the complainant herself. Further, the complainant, who is the most vital witness of the case, stated by herself that she does not want to proceed with the case further and she has no objection, if accused gets acquitted from the charge. Due to misunderstanding on some family matters with her husband, the complainant, on being emotional, lodged the ejahar against her husband. Altogether, it implies that the complainant noway incriminated the accused with the alleged offence. As the complainant deposed before the court voluntarily, her evidence is accepted.

11. 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 not found guilty U/S 498(A) I.P.C. Hence, the accused Md. Imdadul Islam is acquitted from the charge U/S 498(A) I.P.C. and he is set at liberty forthwith.
12. The bail bond shall remain in force for next 6 months as per provisions of Section 437-A Cr.P.C.

Given under my hand and seal of this court on this 12th day of March, 2020 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- Must. Aliza Khatoon (complainant)

B. Defence witness : Nil

C. Documents exhibited : Ext. 1 – Ejahar.

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

Transcribed and typed by me:

(Tulashi Dev Sarma/Stenographer).