

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
DIBRUGARH :: ASSAM.**

G.R. Case No. 2359/2020 (PRC 1344/2020)

U/S 498(A)/323 OF IPC

State of Assam

-Vs-

Sri Dharmendra Gogoi.....Accused.

PRESENT : A.K. BARUAH, LL.M. AJS.

Chief Judicial Magistrate,

Dibrugarh.

APPEARANCE :

Advocate for the Prosecution	: Miss D. Gogoi, Asst. P.P
Advocate for the Defence	: S. Rayeen, U. Routh Advocates.
Date of evidence	: 27.04.2021.
Date of argument	: 27.04.2021
Date of judgement	: 03.05.2021.

J U D G M E N T

- 1.** The case of the prosecution in brief, is that after the marriage between the complainant Smti Junmoni Gogoi and the accused Sri Dharmendra Gogoi, the accused husband tortured her both physically as well as mentally. The complainant Smti Junmoni Gogoi, had filed one FIR in the Bogibeel Police out post, regarding the incident.

2. On the basis of the FIR lodged by the complainant, a case, being Borboruah P.S Case No. 197 of 2020, was registered under Section 498(A)/323 IPC. Police conducted investigation into the case and filed charge sheet against the accused person namely Sri Dharmendra Gogoi under section 498(A)/323 IPC.
3. The accused appeared in this case. Copies were furnished to him under section 207 Cr PC. Considering the material on record and hearing both sides, charge under section 498(A)/323 IPC was framed against the accused person, to which, the accused pleaded not guilty and claimed to be tried.
4. During the trial of the case, the prosecution side examined 1(one) P.W. in this case. The defence plea is of total denial. The defence did not adduce any evidence. Recording of statement of the accused U/s 313 Cr.PC was dispensed with.
5. I have heard the learned counsel for the accused and learned Asst. P.P for the State. Having heard both sides and after perusing the materials on record, the following points for determination are framed by this court for the just decision of the case:-
6. **POINTS FOR DETERMINATION :-**

- i. Whether the accused person being the husband of the complainant namely Smti Junmoni Gogoi, subjected her to "cruelty" which is of such a nature, as is likely to drive the informant to commit suicide or to cause grave injury/danger to life, limb and health of the informant?
- ii. Whether the accused person on 06-07-2020, voluntarily caused hurt to the complainant namely Smti. Junmoni Gogoi?

DECISION AND REASONS FOR THE DECISION :-

7. PW1 (**Smti. Junmoni Gogoi**) deposed in her evidence that she is the complainant of this case and accused is her husband. Due to some quarrel with her husband out of misunderstanding of facts, she (PW1) lodged this case. PW1 identified the FIR as exhibit 1 and her signature as exhibit 1(1). At present, she has no allegation against her husband. She does not want to proceed with the matter. At present she is residing with her husband together happily under the same roof.

In her cross-examination, PW1 deposed that she has no objection if the accused person is acquitted from the case.

8. From the above discussion, I have found no material against the accused. P.W. has not implicated the accused. PW1 being the complainant cum victim did not implicate

the accused by stating that due to some misunderstanding, she (PW1) lodged the case. Hence, from the evidence on record, I found no material against the accused. Hence, I hold the points for determination in the negative.

- 9.** In the result, I have not found the accused guilty in this case. Hence, I acquit him from the charges under section 498(A)/323 IPC and set him at liberty forthwith. Considering the evidence of the complainant cum victim, the case is not referred for victim compensation.
- 10.** The bail bond will be in force for 6 (six) months from today.

Given under my hand and seal of this court on this 03rd day of May, 2021.

(A K Baruah)
Chief Judicial Magistrate,
Dibrugarh.

Appendix

Prosecution Witness :-

PW1 :- Smti. Junmoni Gogoi

Defence witness :-

None

Exhibits :-

Prosecution exhibits :-

Exhibit 1:- FIR.

Defence exhibits : -

None

Court witness :- None.

Court exhibits :- None.

CJM, Dibrugarh