

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS :

DIBRUGARH

PRESENT : Smti. Zohra Yasmin, A.J.S.,

Judicial Magistrate First Class,

Dibrugarh

Advocate for the Prosecution : Sri. M. Dutta, A.P.P.

Advocate for the accused : Smti. P. Baruah

G.R. Case No. 953 of 2008

State of Assam

-VS-

Sri. Rontu Borah Accused Person

Under Section 498(A) IPC

Charges framed on 02.03.2021

Evidence recorded on 18.12.2021

Arguments heard on 18.12.2021

Judgment delivered on 24.12.2021

J U D G M E N T

- 1) The prosecution story in brief is that on 26.05.2008 an Ejahar was lodged by the informant Smt. Ritashree Phukan Borah alleging inter alia that on

23.05.2008 at 8.30pm, at Niz Kodomoni after her marriage with the accused person started torturing her both physically and mentally. After few days of her marriage the accused person Sri. Rontu Borah started demanding dowry from the informant and on account of her failure to fulfill his demands the accused person started torturing the informant both physically and mentally and also threatened her of dire consequences. Hence, the ejahar was lodged by the informant.

- 2) On receipt of the Ejahar, Dibrugarh P.S. Case no. 237/2008, U/S 498(A) of the Indian Penal Code was registered. Upon completion of the investigation, the police submitted charge-sheet against the accused person namely, Sri. Rontu Borah under the above mentioned section of law.
- 3) Upon receiving summons, the accused person appeared before the court. Upon perusal of the case record and after hearing both the sides on the point of charge and on finding prima facie materials against the accused person Sri. Rontu borah, formal charges under Sections 498(A) of IPC was framed and explained to him to which he pleaded not guilty and claimed to be tried.
- 4) In support of the case, the prosecution has examined one witness.
- 5) After the prosecution evidence was over, the accused person was examined under Section 313 Cr.P.C. wherein he had denied the prosecution case and also declined to adduce any defence evidence.
- 6) I have heard the arguments of both sides.

- 7) Considering the materials on record and after hearing the arguments of both sides, the following points are taken as points for determination-

POINTS FOR DETERMINATION-

- (i) Whether the accused person being the husband of Smt. Ritashree Phukan Borah had subjected her to cruelty both mentally and physically and thereby liable to be punished under Section 498(A) IPC?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 8) Let me discuss the evidence of all the prosecution witnesses for arriving at a definite conclusion as regards the points for determination. PW 1, Smt. Ritashree Phukan Borah is the informant as well as the victim in the case. She has deposed in her evidence-in-chief that the accused person is her husband. In the year 2008, a misunderstanding was created between the informant and the accused person arising out of family matters. The informant lodged the ejahar out of anger. PW1 also stated that the matter is amicably settled between them. Exhibit 1 is the Ejahar and Exhibit 1 (1) is the signature of PW1.
- 9) Cross examination was declined.
- 10) From the evidence of PW1 who is the informant as well as the victim of the case, it is seen that she has stated nothing incriminating against the

accused person. The witness has deposed that she filed the case due to misunderstanding.

- 11) It is one of the cardinal principle in a criminal case that the prosecution must prove the guilt of the accused beyond all reasonable doubt. In this instant case, the prosecution has not been able to prove the case against the accused person beyond all reasonable doubt under Section 498(A) IPC; as such the accused person is acquitted of the charge under Section 498(A) IPC and he is set at liberty.

ORDER

- 12) The accused person Sri. Rintu Boruah is acquitted from the offences under Section 498(A) IPC in this case and he is set at liberty forthwith.
- 13) The bail bond of the accused person is extended for six months from today as per the provisions of Section 437A CrPC.
- 14) The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 24th day of December, 2021 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) PW1 Smt. Ritashree Phukan Borah (Informant)

PROSECUTION EXHIBITS:

- 1) Exhibit 1- Ejahar
- 2) Exhibit 1(1)- signature of the informant

DEFENCE WITNESSES:

None

DEFENCE EXHIBITS:

NIL

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH