

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST  
CLASS, DIBRUGARH, ASSAM**

Present:- **Smti. Sanskrita Khanikar, A.J.S.**

Judicial Magistrate First Class, Dibrugarh

**Date of Judgment:-28-02-2022**

**G.R.Case No.505/2018**

(F.I.R. No.236/2018 dated 16/02/2018

Dibrugarh P.S.Case No.236/2018 under sections  
498A/294/307 IPC)

Complainant:	State of Assam
Represented By	Learned Smti. Lakshmi Mohan
Accused	<b>Md. Ramjan Ali</b> S/O - Sri Bonu Das R/O - Banipur P.S. - Dibrugarh Dist - Dibrugarh, Assam
Represented By	Learned Sri Gokul Pareek

Date of Offence	14-02-2018
Date of FIR	16-02-2018
Date of Charge-sheet	28-02-2018
Date of Charge Framed	13-07-2018

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Date of Commencement of evidence	29-08-2018, 01-12-2018, 21-10-2019 & 30-11-2021
Date of recording Statement Defence	19-02-2022
Date of Argument	19-02-2022
Date on which Judgment is reserved	28-02-2022
Date of Judgment	28-02-2022
Date of Sentencing Order,if any	Nil

**Accused Details:**

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Charges framed with sections	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
Accused No.1	<b>Md. Ramjan Ali</b>	Nil	02-07-2018	498A IPC	<b>Acquitted</b>	Nil	Nil

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

1. The prosecution case as stated in the F.I.R. dated 15-02-2018 is that the informant, namely, Smti. Ruksana Begum, is the wife of Sri Ramjan Ali. As per the F.I.R., Sri Ramjan Ali despite being married to the informant, is having an affair with a married lady since three years before the lodging of the said

F.I.R. due to which he has been subjecting the informant to various physical and mental suffering. She refrained from lodging any case against her husband by thinking about the future of her children. Her husband has been residing in a separate rented house along with his mother and the said married lady. She has also stated that if she visited the rented house of her husband, he would physically assault her and her children. Her husband takes no responsibility of her and her children. On 14-02-2018, when her husband came to her rented house at about 09:15 a.m. in the morning, she asked him to leave the married lady and stay with her. Her husband then physically assaulted her, tore her clothes and even poured kerosene over her in an attempt to kill her but she somehow escaped from him and took shelter at a neighbour's house. Under the above circumstances, the informant was compelled to file an ejahar against her husband.

2. A case was registered at Dibrugarh P.S. subsequent to the lodging of this F.I.R. which was filed against the accused Sri Ramjan Ali being the husband of the informant. Upon completion of investigation, the police submitted charge-sheet against him u/sec 498A of the Indian Penal Code (hereinafter referred to as I.P.C.).

3. The accused stood for trial. Copies of the relevant documents were furnished to him as required by Section 207 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.). Upon careful perusal of the materials on record and after hearing both sides on the point of consideration of charge, a prima facie case was found u/sec 498A of the IPC against the accused. A formal charge u/sec 498A, IPC was framed, read over and explained to the accused Sri Ramjan Ali to which he pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution side has examined as many as 05 (five) witnesses namely Smti. Ruksana Begum, informant of the case as PW-1, Sri Faiyaz-Al-Sharif as PW-2, Smti. Asira Khatun as PW-3, Smti. Malati Rai as PW-4 and Sri Umesh Chandra Mech as PW-5.

The prosecution also took aid of 03 (three) documents which are as follows:

The ejahar as Exhibit 1, the sketch-map of the place of occurrence as Exhibit 2, the charge-sheet as Exhibit 3 and the medical report of the informant/victim as Exhibit 4.

5. After recording the prosecution evidence, the statement of the accused person was recorded u/sec 313 of Cr.P.C. The defence plea is that of total

denial and the accused person claimed innocence. The defence adduced no evidence.

6. I have heard the arguments from both sides and meticulously perused the entire evidence on record.
7. THE POINT FOR DETERMINATION:

Whether the accused person being the husband of the informant, committed acts of physical and mental cruelty on her, followed by demands of dowry and thereby committed an offence punishable u/sec 498A of the IPC?

DISCUSSION, DECISION AND REASONS THEREON:

8. PW-1, being the informant, deposed in her evidence that the accused person is her husband and that they were married in the year 2002 as per social customs and rites. After their marriage, three children were born to them out of the wedlock. Until 10 years after the marriage things were fine between the couple. But thereafter, the accused began to have an extra-marital relationship with another lady and because of this he began to subject the informant/PW-1 to physical assault. According to her, the married lady used to visit the accused person's mother-in-law and when the informant asked about this to the accused, he started physically assaulting and verbally abusing

her. The accused arranged for a separate rented house for her accommodation. But thereafter, the accused stopped visiting her and began to stay separately at his own house. Her two sons used to stay with her mother-in-law and her daughter used to stay with her. She proved Exhibit 1 as the F.I.R. by identifying Exhibit 1(1) as her signature therein.

During her cross-examination, she stated that she filed the instant case against her husband because he refused to maintain her and live together with her but she has not mentioned the same in the F.I.R. She stated that she would not have filed the instant case against him if he maintained her and took care of her everyday expenses. She was unable to recall the contents of the F.I.R. The accused had to arrange a separate accommodation for her as she refused to stay in the same house as her mother-in-law. After leaving the matrimonial home, she has changed about four rented houses. Her mother-in-law stays alone in the main house and as the informant is living separately, she is unable to look after or help her mother-in-law. Even before the institution of the instant case, the accused has been home taking care of his mother and maintaining her two sons. She also stated that she will not proceed any further in the instant case if the accused takes care of her maintenance. The

amount given to her by the accused for her maintenance is not sufficient enough for her. Her statement was not recorded by the police. She was sent by the police for her medical examination. She denied the defence suggestions that she had lodged a false case against the accused person and that the accused person is not having any extra-marital relationship with another woman.

9. PW-2 deposed in his evidence that the accused and the informant are known to him. According to him, they are a married couple with three children who have been staying at his rented house. Sometime in the year 2017, the accused left the rented house and sometime in the year 2018, the informant also left the rented house. After leaving the rented house, the accused never returned to be with the informant.  
During her cross-examination, he stated that he never came to know about any marital discord between the accused and the informant when they were staying at the rented house.
10. PW-3 deposed in her evidence that the accused and the informant are known to him. According to him, they were a married couple who were staying in the same tenanted premises as him. Sometime in the year 2017, they both left the rented house. He does not know anything about the incident.

During his cross-examination, he stated that he never came to know about any marital discord between the accused person and the informant.

11. PW-4 deposed in her evidence that the accused is her neighbour and the informant is his wife. She does not know anything about the incident. Her cross-examination has been declined by the defence.
12. PW-5 being the I.O. deposed in his evidence that on 15-02-2018, he was posted as ASI at Borbari Police Outpost. At 06:45 p.m. in the evening of the same day, the informant MRS. Ruksana Begum filed a written ejahar at Borbari Police Outpost which was registered as Borbari O.P. G.D. No. 391 dated 15-02-2018 by the in-charge of the police station. He was entrusted with the preliminary investigation of the instant case. Firstly, he sent the informant/victim to AMCH, Dibrugarh for her medical examination. Then he recorded her statement at the P.S. Thereafter, he visited the place of occurrence and prepared its sketch-map. He proved Exhibit 2 as the sketch-map of the place of occurrence by identifying Exhibit 2(1) as his signature therein. Then he went in search of Sri Ramjan Ali at his residence at Dibrujan but there he found that Sri Ramjan Ali had already left for his workplace. He asked his family members to send him to the P.S.

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when he returned. On the next day i.e. on 16-02-2018, the original ejahar was registered at Dibrugarh P.S. as Dibrugarh P.S. Case No. 236 of 2018u/sec 498A/294/307 of IPC. Thereafter, he was again entrusted with the investigation of the instant case. On 16-02-2018, he again went in search of Sri Ramjan Ali but his family members informed him that he had already gone to the P.S. He then went back to the P.S. and found Sri Ramjan Ali there. He recorded his statement. There were no materials against him u/se 307 IPC. After issuance of notice u/sec 41 Cr.P.C., he was allowed to go. On 28-02-2018, he again appeared at the P.S. where his statement was recorded and he was allowed to go. He then collected the informant/victim's medical report and handed over the case diary to the I/C Sri Dilip Kumar Chutia. Subsequently, S.I. Sri Dilip Kumar Chutia submitted the charge-sheet against the accused u/sec 498A/294 IPC on the basis of the investigation carried out by PW-5. He proved Exhibit 3 as the charge-sheet by identifying Exhibit 3(1) as the signature of S.I. Sri Dilip Kumar Chutia which is known to him. He proved Exhibit 4 as the medical report of the informant/victim collected by him.

During his cross-examination, he stated that he did not record the statement of the doctor who

examined the informant/victim. According to him, the incident occurred at the rented house. There were about 4 'kutcha' rented houses. He did not mention the names of the tenants in the case diary. He could not state how many family members were living in a single rented house as he did not record the statements of all the family members residing there. He did not record the statements of Sri Raju Ahmed, Sri Aftab Hussain, Sri Siddique Rahman and Sri Johnth Saleh. He was there at the place of occurrence only on one day for one hour. After that he never visited the place of occurrence. The I/C who laid the charge-sheet neither visited the place of occurrence nor recorded the statements of the above mentioned witnesses. He submitted the charge-sheet on the basis of the investigation conducted by the PW-5. He denied the defence suggestion that the investigation carried out by him was perfunctory.

13. It appears from the prosecution evidence that the victim/informant is the sole direct witness in this case. Coming to the offence u/sec 498 A, its essence lies in the Explanation to section 498 A, IPC which defines cruelty as follows:

Explanation - For the purposes of this Section, "cruelty" means-

- (i) 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
- (ii) Harassment of the women where such harassment is with a view to coercing her or any person related to her to meet an unlawful demand for any property or valuable security or is on account of failure by 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.

Thus, it becomes clear that as per Section 498A of the IPC, the term 'cruelty' is comprised of two elements. Let us first examine whether these elements are present in the prosecution case.

14. The first element of the explanation to Section 498A, IPC is physical torture, which may result in death by way of suicide or cause grave injury or danger to life, limb or health (whether physical or mental). It implies that the situation created by the conduct of the accused must be such which the accused knows would drive the wife to commit suicide or would

cause grave injury or danger to her life, limb or health. In the instant case, although the PW-1/informant has stated in her evidence that acts of physical assault were meted out to her, yet such acts cannot be presumed to be of such nature as to drive her to commit suicide. She has stated in the Exhibit 1 being the ejahar that on 14-02-2018, her husband physically assaulted her, tore her clothes and even poured kerosene over her in an attempt to kill her but quite surprisingly she did not mention anything about it in her testimony in the Court. Even though the prosecution failed to examine the M.O. in the instant case, a bare perusal of the medical report of the informant/PW-1 being Exhibit 4 reveals that there was no fresh injury on the informant's person. It thus, transpires that there is no medical evidence to support the contentions of the informant. None of the PWs have stated anything about any sort of injury sustained by the informant as a result of the acts of the accused person.

Resultantly, it transpires that the prosecution case is bereft of element of the explanation to Section 498A, IPC as envisaged in clause (a).

15. The second element of the explanation to Section 498A, IPC is harassment caused with a view to coerce the woman or any person related to her to

meet the unlawful demand for property or valuable security. It implies a situation where the wife is continuously tormented with demands for dowry, irrespective of the fact whether such unlawful demand is accompanied by any physical torture. In the instant case, none of the prosecution witnesses including PW-1/informant could point out even a single specific act of cruelty either mental or physical committed upon her by the accused Sri Ramjan Ali in connection with demand for dowry. Infact the demand for dowry is not even an allegation in the instant case. Resultantly, the prosecution has failed to prove the second element as envisaged in clause (b) of the explanation to Section 498A, IPC in the acts of the accused person.

The informant/PW-1 categorically stated during her cross-examination that she filed the instant case against the accused because he refused to maintain her and that she would not have filed the instant case against him if he maintained her and took care of her everyday expenses. She also stated that she will not proceed any further in the instant case if the accused takes care of her maintenance. The amount given to her by the accused for her maintenance is not sufficient enough for her. Thus, it appears that her main grievance against the accused is

'maintenance' and not any grievance based on the grounds constituting an offence u/sec 498A, IPC.

As is clear from the above discussion, the evidence on record is quite inadequate to establish the prosecution case and there is ample scope of reasonable doubt as to the factum of the occurrence alleged. In the absence of any cogent evidence, I am not inclined to hold the accused person guilty u/sec 498A, IPC.

Situated thus, I am constrained to hold that the prosecution has failed to establish the guilt of the accused person, namely, Sri Ramjan Ali u/sec 498A, IPC beyond all reasonable doubt. As such, the point of determination is answered in the negative in favour of the above-named accused person.

**ORDER**

16. In view of the decision made above, the accused person, namely, Sri Ramjan Ali is acquitted of the charge of the offence under section 498A, IPC and set at liberty forthwith.

His bail bond shall remain in force for six months from today in compliance with section 437-A, Cr.P.C.

The case is disposed of on contest.

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Given under my hand and the seal of this Court on  
this 28<sup>th</sup> day of February, 2022 at Dibrugarh.

Typed by: Self

Sanskrita Khanikar

Judicial Magistrate First Class  
Dibrugarh

**APPENDIX**

**LIST OF PROSECUTION /DEFENCE /COURT  
WITNESSES**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
PW1	Smti. Smti. Ruksana Begum	Informant/Victim
PW2	Sri Faiyaz-Al-Sharif	Other Witness
PW3	Smti. Asira Khatun	Other Witness
PW4	Smti. Malati Rai	Other Witness
PW5	Sri Umesh Chandra Mech	Investigating Officer

**B. Defence Witnesses,if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
DW1	Nil	Nil
DW2	Nil	Nil

**C. Court Witnesses,if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
CW1	Nil	Nil
CW2	Nil	Nil

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exhibit -1	The Ejahar
2	Exhibit -2	The sketch-map of the place of occurrence
3	Exhibit -3	The Charge-Sheet
4	Exhibit -4	The medical report of the informant/victim

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exhibit D-1/DW1	Nil
2	Exhibit D-2/DW2	Nil

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>1</b>	Exhibit C-1/CW1	Nil
<b>2</b>	Exhibit C-2/CW2	Nil

**D. Material Objects:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>1</b>	MO1	Nil
<b>2</b>	MO2	Nil

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh