

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,  
LAKHIMPUR, NORTH LAKHIMPUR, ASSAM**

Present: Sri Akhtabul Ala, AJS,  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur, Assam

**G.R. 787/2014**

Under section 498-A of the Indian Penal Code

**State of Assam**

**-Vs-**

**1. Md. Abul Kalam Azad**

**2. Musstt. Jahanara Begum @ Nur Jahan Begum**

..... Accused persons

Date of framing charge : 20.06.2015  
Dates of recording evidence : 11.07.2016, 03.04.2018,  
05.12.2019  
Date of examination u/s 313, Cr.P.C. : 03.11.2020  
Date of argument : 01.12.2012  
Date of judgment : **07.12.2020**

**Advocates appeared in the case:-**

Mr. Prasanta Dutta, Addl. P.P., for the State  
Sri Gopalji Sahu, Advocate, for the accused persons

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

1. The brief resume of the prosecution case is that one Musstt. Romisa Khatun had lodged an ejarah before the In-charge of Bongalmara Police Outpost on 03.05.2014 alleging inter alia that the accused Md. Abul Kalam Azad is her husband while Musstt. Jahanara Begum is the other wife of the accused Md. Abul Kalam Azad and that her husband had demanded money and property from her. When she failed to comply both the accused and his other wife Musstt. Jahanara Begum started physically and mentally torturing her. Hence, the case.

2. The Officer-in-charge of Bihpuria Police Station on receiving the ejahar had registered a case vide Bihpuria P.S. Case No. 147/2014 under section 498-A/317 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 498-A of the Indian Penal Code only against the accused persons Md. Abul Kalam Azad and Musstt. Jahanara Begum to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 498-A of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. Necessary copies were furnished to the accused persons as per section 207 of the Code of Criminal Procedure after their appearance before the Court. After considering the materials on record and hearing both the sides, charge under section 498-A of the Indian Penal Code was framed in writing against the accused persons. The charge was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined 3 (three) witnesses viz. Musstt. Taibun Nessa as PW-1, Md. Ajijur Rahman as PW-2 and Musstt. Hafiza Khatun as PW-3. After the closure of the prosecution evidence, the accused persons were examined under section 313 of the Code of Criminal Procedure wherein they pleaded their innocence. They declined to adduce any evidence in defence.

5. Both the sides advanced their respective arguments in this case.

**POINT FOR DETERMINATION:**

6. The point which is required to be determined for a just decision of this case is as follows:

(a) Whether the accused persons had committed cruelty upon the informant by physical and mental torture to her to coerce her to meet their demand of dowry ?

**DISCUSSION, DECISION AND REASONS THEREOF:**

7. To determine the aforesaid point of determination let us have a scrutiny of the evidence on record.

8. PW-1 Musstt. Taibun Nessa in her evidence testified that she had heard about the informant Romisa Khatun being the wife of the accused Md. Abul Kalam Azad. She stated that she has no terms with the accused persons and is not aware of anything about this case.

9. PW-2 Md. Ajijur Rahman deposed that the informant and the accused Md. Abul Kalam Azad are husband and wife who were married about 7 (seven) years back. They resided together for about 3 (three) years and thereafter the informant had lodged a case against the accused Md. Abul Kalam Azad which he could hear. Thereafter the informant stayed separately from the accused Md. Abul Kalam Azad. He further deposed the he doesn't know the reason of informant lodging this case against the accused persons. He also stated that the informant Musstt. Romisa Khatun was earlier married to Moijuddin Ahmed and had child from him and while the said baby was about 3 (three) months old she gave the baby to him. He accordingly looked after the said baby and reared him up. The age of said infant boy is now about 7½ years and is studying in Class-II. He further deposed that he doesn't know the present whereabouts of the informant Musstt. Romisa Khatun.

10. PW-2 in his cross-examination stated that he didn't attend the marriage of informant and the accused Abul Kalam Azad and doesn't know how they got married.

11. PW-3 Musstt. Hafiza Khatun deposed that she neither knows the informant nor the accused persons and is not aware about this case.

12. So these were witnesses on record from the prosecution side. The prosecution failed to adduce the evidence of the informant Musstt. Romisa Khatun whose appearance could not be compelled despite of issuing NBWA against her.

13. Now a look at the evidence on record goes to show that they are not aware about the reason for why the informant had lodged this case against the accused. They in fact don't know anything about this case. PW-2 only knows that the informant after living 3 (three) years with the accused Md. Abul Kalam Azad had left his home but he doesn't know the reason for her leaving the house and he also not aware about her present whereabouts.

14. None of the witnesses as it can be seen had stated anything about the accused persons demanding any dowry or committing torture upon the informant and they are in fact not even aware of the case properly.

15. So from the evidence on record it can no way be concluded that the accused persons had subjected the informant any sort of cruelty demanding dowry from her or that they had posed a threat to the life and limb of the informant.

16. Hence, the aforesaid point of determination is held in negative.

17. In the result, the prosecution has failed to prove the charge against the accused persons under section 498-A of the Indian Penal

Code and as such they are acquitted from the said charge and set at liberty.

Bail bonds are extended to for the further 6(six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 7<sup>th</sup> day of December, 2020.

**(Sri Akhtabul Ala)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Dictated and Corrected by me:

**(Sri Akhtabul Ala)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Transcribed and typed by me:  
Narayan Chetri, Stenographer

Continued ..... (Appendix)

**A P P E N D I X**

**WITNESSES FROM THE PROSECUTION SIDE**

Musstt. Taibun Nessa (PW-1)

Md. Ajijur Rahman (PW-2)

Musstt. Hafiza Khatun (PW-3)

**PROSECUTION EXHIBIT**

Nil

**WITNESSES AND EXHIBITS FROM THE DEFENCE SIDE**

Nil

**WITNESSES AND EXHIBITS FROM THE COURT SIDE**

Nil

**(Sri Akhtabul Ala)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur