

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS**

**North Lakhimpur, Lakhimpur**

**PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS**

Judicial Magistrate First Class,

Lakhimpur, North Lakhimpur

**C.R.(W) Case No.130/2019**

**Smt. Nikumoni Saikia Gogoi**

**Versus**

**Nipen Gogoi**

**( Under sections 406/420 IPC )**

Evidence before charge : 22.03.2021  
Charge framed on : 22.03.2021  
Evidence after charge : 22.03.2021  
Statements recorded on : Dispensed with  
Arguments heard on : 22.03.2021  
Judgment delivered on : 22.03.2021  
Advocate for the Complainant : Mr. Babul Gogoi  
Advocate for the Accused : Mr. Gourab Kumar Payeng

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

- 1.** Accused stood for trial for commission of offence u/s 406/420 IPC.
- 2.** The complainant Smt. Nikumoni Saikia Gogoi lodged a complaint case against the accused alleging *inter alia* that she was married to accused Nipen Gogoi on 22.10.2016 and thereafter both the parties resided together as

husband and wife. Out of the said wedlock a male child was born to them. After a few days of marriage the accused demanded the complainant to bring money and other valuable articles from her parental house and thereafter started to torment mental and physical tortures on her. On 27.07.2019 the accused assaulted the complainant and drove her out from her matrimonial house. At the time of marriage various articles were given to the complainant from her parental house, which are lying at the house of the accused. After the complainant was driven out from her matrimonial house, she had to take refuge at her natal house. The complainant in her complaint petition submitted that the accused threatened to kill her and it has become difficult for her to reside with him. Further the complainant prays for recovery of her streedhan articles lying at her matrimonial house. Hence, this case.

**3.** After the registration of the complaint case, the statement of the complainant was recorded under section 200 of the Code of Criminal Procedure. The statement of the witness was recorded under section 202 of the Code of Criminal Procedure. After perusal of the complaint petition, statement of the witnesses and after finding sufficient materials, cognizance under section 406/420 of the Indian Penal Code was taken against the accused. Thereafter examination-in-chief of the complainant was recorded and cross-examination kept reserved. After perusal of the materials available in the case record, formal charges under section 406/420 of the Indian Penal Code was read over and explained to the accused to which he pleaded not guilty and claimed to be tried. After framing charges cross-examination of the complainant was declined by the defence.

**4.** Complainant in support of its case has examined only one (1) witness.

5. The statement defence of the accused u/s 313 of the Code of Criminal Procedure is dispensed with as no incriminating materials were found against him. Accused denied to adduce evidence in his support.

6. I have heard the arguments advanced by the learned counsel for the complainant as well as the accused . Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

**POINTS FOR DETERMINATION:**

**Point No 1:** Whether the accused being the husband of the complainant were entrusted with the streedhan articles given to the complainant at the time of marriage and converted the same for his own use and thereby committed an offence punishable u/s 406 of IPC?

**Point No 2:** Whether the accused cheated the complainant by dishonestly inducing her to deliver the streedhan articles belonging to her capable of being converted into valuable security and thereby committed an offence punishable u/s 420 of IPC?

**DISCUSSIONS, DECISIONS AND REASONS THEREOF:**

7. Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case. From the evidence of **P.W-1/complainant Nikumoni Saikia Gogoi**, it reveals that the complainant is no more interested to proceed with the case against the accused on the ground that the matter is amicably settled between them. It also reveals that the complainant herself has refused to lead evidence against the accused in support of the complainant lodged in this case by her.

Thus, from the little evidence that has been brought before this court in the form of statement made by the complainant/P.W-1, it is seen that no offence has been made out against the accused under any section of law. Situated thus, it is found that the complainant has failed to implicate the accused of any offence.

**ORDER**

**8.** In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused namely Nipen Gogoi. Accordingly, accused is acquitted of the charge u/s 406/420 IPC levelled against him in this instant case.

**9.** Set the accused at liberty forthwith.

**10.** The bail bond for the accused is extended for a further period of six (6) months.

**11.** The case is disposed of on contest accordingly.

Given under my hand and seal on this 22<sup>nd</sup> day of March, 2021 at North Lakhimpur, Lakhimpur.

(Ms. Sparsita Garg)  
Judicial Magistrate First Class  
Lakhimpur, North Lakhimpur

**APPENDIX**

**A. WITNESS OF PROSECUTION:**

1. **P.W-1** : Smt. Nikumoni Saikia Gogoi

**B. EXHIBITS OF PROSECUTION: NIL**

**C. WITNESS OF DEFENSE: NIL**

**D. EXHIBITS OF DEFENSE: NIL**

(Ms. Sparsita Garg)  
Judicial Magistrate First Class  
Lakhimpur, North Lakhimpur