

**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

**G.R. Case No.313/2014**

**State**

**Versus**

**Amsor Ali**

**( Under section 498(A) IPC )**

Charge framed on : 17.08.2017  
Evidence recorded on : 30.08.2018, 21.01.2019,  
16.03.2019, 03.03.2021  
Statements recorded on : 25.06.2019  
Arguments heard on : 12.03.2021  
Judgment delivered on : 17.03.2021  
Advocate for the Prosecution : Mr. Jangki Doley  
Advocate for the Accused : Md. Eunus Ali

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

**1.** Accused stood for trial for commission of offence u/s 498(A) IPC.

**2.** The informant Musstt. Hafija Khatoon lodged an ejahar dated 03.03.2014 alleging *inter alia* that she is the legally married wife of accused Amsor Ali and at the time of marriage Rs.75,000/- (Rupees Seventy Five Thousand Only)

was given at the time of marriage through registered Kabilnama. At the time of marriage, the father of the informant gave various articles and thereafter both the parties started their conjugal life. After a few days of her marriage, the accused tormented mental and physical tortures on the informant in demand of dowry and drove her out from her matrimonial house. On 01.03.2014 the accused telephoned the informant and asked her to come to Silapathar Centre. Thereafter the accused demanded the informant to give him the gold nose ring which she was wearing. The accused along with his sister abandoned the informant at Silapathar Centre and thereafter her father came to her rescue. Hence, this case.

**3.** On receipt of the ejahar, Officer-in-Charge of North Lakhimpur Police Station registered the case as North Lakhimpur P.S. case no.155/2014 u/s 498(A) IPC. Thereafter Investigating Officer launched investigation of the case and submitted chargesheet u/s 498 (A) of the Indian Penal Code against the accused namely Amsor Ali.

**4.** Thereafter, cognizance has been taken and summon have been issued to the accused. On appearance of accused, necessary documents required u/s 207 Cr.P.C have been furnished to them. On perusal of the materials on record formal charges under section 498 (A) IPC is read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

**5.** Prosecution in support of its case has examined only six (6) witnesses.

**6.** The statement of the accused u/s 313 of the Code of Criminal Procedure was recorded in which the accused denied all the allegations levelled against him. The defence tendered the evidence of one (1) witness in his support.

**7.** I have heard the arguments advanced by the learned

counsel for the accused person and Ld. A.P.P. Perused the materials available in the case record. 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 informant Musstt. Hafija Khatoon tormented mental and physical torture on her on various occasions in demand for dowry and drove her out from her matrimonial house and thereby committed an offence punishable u/s 498 (A) of IPC?

**DISCUSSIONS, DECISIONS AND REASONS THEREOF:**

**8.** 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. In order to establish a charge under section 498 (A) of the Indian Penal Code, the prosecution is required to prove that the husband of the informant had tortured her mentally and physically in order to fulfill unlawful dowry demands.

**9.** The informant/**P.W-1 Habija Khatoon** in the evidence alleged that after two months of her marriage she was assaulted by the accused/husband and was driven out from her matrimonial house. P.W-1 returned back to her matrimonial house after 5-6 months and at that point of time she was carrying 8 months pregnancy. P.W-1 again returned back to her paternal house and after a few days the accused visited the parental house of the informant and took her back but on their way back as she was abandoned at Silapathar. Thereafter her parents brought her back home. After the incident the informant lodged an ejahar.

The evidence of the informant is required to be corroborated by other witnesses. The fact for demand of dowry and cruelty upon the informant is to be supported by other witnesses including the neighbours of the accused where both the informant and accused resided.

**10. P.W-2 Jahanara Begum** in her evidence stated that she knew that both the informant and the accused were living together as husband and wife and both quarreled with each other and thereafter the informant left for her parental house taking the mobile phone belonging to the accused. Thus this witness remained silent that cruelty was inflicted on the informant. P.W-2 also remained silent that the accused demanded dowry from the informant. Thus, P.W-2 did not support the evidence of the informant.

**11. P.W-3 Habijul Islam** in his evidence stated that he does not know anything about the incident. Thus, he also could not support the prosecution case.

**12. P.W-4 Miyamota Ali @ Niyamot** stated in his evidence that he does not know anything about the incident. Thus, this witness also did not support the prosecution case.

**13. P.W-5 Nurul Amin** stated in his evidence that he does not know anything about the incident. Thus, P.W-5 also did not support the prosecution case.

**14. P.W-6 Diganta Kalita** is the Investigating Officer of the case. He described the steps taken by him during the course of investigation. He also proved the sketch map of the place of occurrence marked as Exhibit 3 and the chargesheet marked as Exhibit 4. The evidence of the Investigating Officer can at best support the prosecution case but his evidence alone cannot prove the guilt of the accused person.

**15. D.W-1 Rashida Khatoon** is the sister-in-law of the accused and her evidence goes to show that the accused person and the informant were living together as husband and wife and often quarrel took place between them. D.W-1 nowhere stated that the informant was tormented mental and physical torture by the accused. D.W-1 is a highly interested witness and her evidence cannot nullify the prosecution case. The accused in his statement recorded under section 313 of the Code of Criminal Procedure also admitted that the informant is his wife and they lived together and had a conjugal life. His whole defence is a total denial.

**16.** From the evidence of record, it appears that except for the informant no other witnesses stated anything to show that accused person demanded dowry or physically and mentally tormented the informant. The informant is a highly interested witness. Hence, her evidence alone cannot prove guilt of the accused person. Even the neighbours of the accused could not say if the accused person ever demanded dowry or assaulted the informant. Had there been any such incident, the neighbours would have come to know. Thus the evidence of the informant cannot be accepted as her evidence is not found to be trustworthy and believable one.

**17.** Considering the matter in entirety, I am constrained to hold that the accused deserves to get the benefit of doubt and is accordingly, acquitted.

### **ORDER**

**18.** In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused namely Amsor Ali. Accordingly, accused Amsor Ali is acquitted of the charge u/s 498(A) IPC levelled against him in this instant case.

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

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

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

Given under my hand and seal on this 17<sup>th</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** : Habija Khatoon
2. **P.W-2** : Jahanara Begum
3. **P.W-3** : Habijul Islam
4. **P.W-4** : Miyamot Ali @ Niyamot
5. **P.W-5** : Nurul Amin
6. **P.W-6** : ASI Diganta Kalita

**B. EXHIBITS OF PROSECUTION:**

1. **Exhibit 1** : Ejahar
2. **Exhibit 1(1)**: Signature of the informant/P.W-1.
3. **Exhibit 2** : Statement recorded u/s 164 Cr.P.C.
4. **Exhibit 2(1), 2(2) & 2(3)** : Signatures of P.W-1/Victim/Informant
5. **Exhibit 3** : Sketch Map
6. **Exhibit 3(1)**: Signature of P.W-6 in the Sketch Map
7. **Exhibit 4** : Chargesheet
8. **Exhibit 4(1)**: Signature of I/C Nikhil Rajkhowa, which is identified by P.W-6.

**C. WITNESS OF DEFENSE:**

1. **D.W-1** : Rashida Khatoon

**D. EXHIBITS OF DEFENSE: NIL**

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