

**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. 1619/2015**

Under section 498-A of the Indian Penal Code

**State of Assam**

**-Vs-**

**Md. Abul Hussain**

..... Accused

Date of framing charge : 05.11.2016  
Dates of recording evidence : 13.10.2017, 27.11.2017,  
24.08.2018, 27.02.2020  
Date of examination u/s 313, Cr.P.C. : 27.02.2020  
Date of argument : 27.02.2020  
Date of judgment : **27.02.2020**

**Advocates appeared in the case:-**

Sri Prasanta Dutta and Smti. Ajanta Sharma Baruah, Addl. P.P., for the State  
Sri Nitul Chandra Borah, Advocate, for the accused

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

1. This case has arisen out of an ejahar lodged on 19.08.2015 by informant Musstt. Parbina Begum with the Addl. Deputy Commissioner, Lakhimpur, North Lakhimpur alleging inter alia that the accused Md. Abul Hussain is her husband and since after her marriage he has been subjecting her to cruelty by torturing her physically and mentally on demand of Rs. 50,000/- and a motorcycle as dowry from her. Hence, the case.

2. The Addl. Deputy Commissioner, Lakhimpur, North Lakhimpur, on receipt of the ejahar, forwarded the same to the Officer-in-charge of Bihpuria Police Station for necessary action. On receipt of the ejahar, the

Officer-in-charge of Bihpuria Police Station registered a case vide Bihpuria P.S. Case No. 294/2015 under section 498-A 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 against the accused Md. Abul Hussain 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 as per section 207 of the Code of Criminal Procedure after his 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. The charge was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution altogether examined 3 (three) witnesses viz. Musstt. Parbina Begum as PW-1, Sri Jadab Subedi as PW-2 and Smti. Champa Kurmi as PW-3. The prosecution had exhibited the ejahar as Ext-1 and the signatures of the informant (PW-1) therein as Ext-1(1), Ext-1(2) and Ext-1(3). The defence side had cross-examined the prosecution witnesses. After the closure of the prosecution evidence, the accused was examined under section 313 of the Code of Criminal Procedure wherein he pleaded his innocence. He declined adducing any defence evidence.

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 being the husband of informant-cum-victim Musstt. Parbina Begum, since after her marriage, at village Sonari Gaon,

under Bihpuria Police Station, had subjected her to cruelty by committing physical and mental tortures on her on demand of dowry posing a threat to her life and limb ?

**DISCUSSION, DECISION AND REASONS THEREOF:**

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

8. Now it can be seen that PW-1 Musstt. Parbina Begum, the informant-cum-victim, deposed in her evidence the accused is her husband and for the initial two years of her marriage she lived peacefully in the house of the accused but thereafter the accused demanded dowry of Rs. 50,000/- and a motorcycle from her father but as she couldn't fulfill his demand so he had physically assaulted her with stick and had driven her out of his house keeping her child with him and later when she delivered a male child in the house of her father the accused didn't inquire about her and that he had performed a second marriage which she could hear from other. After coming to the house of her father, she lodged an ejahar at the police station. Ext-1 is her ejahar, Ext-1(1), Ext-1(2) and Ext-1(3) are her signatures therein.

9. But, in his cross-examination, PW-1, the informant-cum-victim, clarified that presently she is residing with her husband i.e. the accused in his house along with her two sons and a daughter as they have amicably settled all disputes between them. She in fact earlier thought about the accused demanding her dowry but he in fact didn't ask her the money as dowry but only tried to borrow some money from her father but out of misunderstanding she thought that he demanded dowry from her for which she had lodged the ejahar. She further stated in her cross-examination that she and her husband i.e. the accused had a mere verbal altercation and push and trust between them during their conjugal life but the accused never beat her seriously and as such she doesn't have any objection if the accused is acquitted as this case arose only out of a misunderstanding.

10. PW-2 Jadab Subedi deposed in his evidence that there used to take place altercation between the accused and the informant and one day the parents of the informant came to the house of the accused to take their daughter and he being the Gaonburah was called there for which he had gone to the house of the accused and after about four days when he went to Bihpuria Police Station he met the informant and her mother at the Police Station and on asking the reason from them being there she replied that the accused keep fighting with her for which she had to file a case against him and that she would not return back to his house.

11. In his cross-examination, PW-2 stated that the he had not seen the accused and the informant fighting with each other.

12. PW-3 Smti. Champa Kurmi deposed in her evidence that the accused and the informant are husband and wife and they were married few years back and have three children out of their wedlock. She further deposed that during their conjugal life there was some verbal altercation between the informant and the accused over some family matters and the informant left the house of the accused getting angry and out of a misunderstanding she had lodged an ejahar against the accused. But now they have amicably settled all disputes between them and are residing peacefully together.

13. In her cross-examination, PW-3 stated that she does not have any objection if the accused is acquitted from this case.

14. So from the evidence on record it transpires that though PW-1 the informant-cum-victim deposed in her evidence that the accused who is her husband after her marriage demanded dowry of Rs. 50,000/- and a motorcycle from her father and as she couldn't fulfill his demand so he had physically assaulted her with stick and had driven her out of his house keeping her child with him but in her cross-examination she testified that presently she is residing with the accused in his house along with her two sons and a daughter as they have amicably settled all disputes between them and that she doesn't have any objection if the accused is acquitted as this case arose only out of a misunderstanding.

PW-2 Sri Jadab Sudedi clarified in his cross-examination that he had not witnessed the informant and the accused fighting with each other. PW-3 Smti. Champa Kurmi testified in her evidence that the accused and the informant have amicably settled all disputes between them and are residing peacefully together. So, none of the PWs has stated anything about the accused committing any cruelty on the informant on demand of dowry.

15. So, in the given position from the evidence on record it can no way be held that the accused has subjected the informant to cruelty by committing physical and mental torture on her on demand of dowry.

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

17. In the result, the prosecution has failed to prove the charge against the accused under section 498-A of the Indian Penal Code and as such he is acquitted from the said charge and is 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 27<sup>th</sup> day of February, 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. Parbina Begum (PW-1)

Sri Jadab Subedi (PW-2)

Smti. Champa Kurmi (PW-3)

**PROSECUTION EXHIBIT**

Ejahar (Ext-1)

Signatures of PW-1 [Ext-1(1), Ext-1(2) and Ext-1(3)]

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBIT**

Nil

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