

**::IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, NALBARI::**

**PRESENT : = Sri K. C. Boro, A.J.S.**

**Ref: PRC No.936/2019**

**STATE**

-VS-

**DWIJEN BAISHYA**

S/O- KAILASH BAISHYA

VILLAGE- SARIYOHTOLI

PS- NALBARI.

DIST. NALBARI, ASSAM.

..... Accused person.

u/s-498(A) IPC.

EVIDENCE RECORDED ON : 11.02.2020 & 28.02.2020.

ARGUMENT HEARD ON : 29.02.2020.

JUDGMENT DELIVERED ON : 29.02.2020.

**ADVOCATES APPEARED :**

For the State : Mr. D. Talukdar, Ld. A.P.P.

For the Accused : Mr. K. Talukdar, Ld. Advocate.

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

1. The case of the prosecution, in a brief, is that an FIR was filed on 03.01.2019 before the Officer-in-Charge of Nalbari PS by informant Sri Bhanita Baishya against accused person namely Dwijen Baishya alleging, inter alia that the informant got married with accused about 3½ years ago and out of the wedlock, she is blessed with a male child. She alleged that after the marriage, accused started torturing her physically as well as mentally. She further alleged that on 25.12.2018,

at about 12.00 pm, at noon, accused assaulted her also damaged her stridhan articles and thereafter, drove her along with her child out of her matrimonial house. Hence, the case.

2. On receiving the case, the O.C of Nalbari PS registered Nalbari P.S. Case No.06/2019 u/s-498(A) IPC and started investigation. On completion of investigation the I.O laid charge-sheet against the accused person namely Dwijen Baishya u/s-498(A) IPC vide CS No.12/2019 dated 31.01.2019.

3. In pursuance of the process issued, the accused person appeared before the court and on his appearance the copies of the case as per the mandate of law u/s-207 Cr.P.C. were furnished to the accused person. Thereupon prima facie case was found against the accused person u/s-498(A) I.P.C and the charge of the offences u/s-498(A) I.P.C. was framed, read over and explained to the accused and he was asked whether he would plead guilty of the offences charged or claimed to be tried. He had pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution side examined two (two) witnesses. 313 Cr.P.C statement of accused person was dispensed with. The defence side declined to adduce any evidence.

5. I have heard the argument of both the sides.

#### **POINT FOR DETERMINATION**

- Whether the accused person namely Dwijen Baishya being the husband of the informant-cum-victim namely Bhanita Baishya on or before 25.12.2018, at village Sariyotoli under Nalbari PS subjected the informant -cum- victim to cruelty which was of such a nature as to cause grave injury to her life or limb and coerced her to meet unlawful demand and thereby committed an offence punishable u/s 498(A) I.P.C.?

#### **DECISION AND REASONS THEREOF:-**

6. PW-1 is Bhanita Baishya, informant. She deposed that she got married with the accused about four years ago. Out of the wedlock, she

is blessed with a male child. On 25.12.2018, she had an anomaly with the accused due to a domestic reason and she came to her parental house. Later on, she filed the FIR. Ext.1 is the FIR and Ext.1(1) is her signature. Now, she is staying with her husband. She has no objection if the accused is acquitted.

7. During cross-examination, this witness deposed that presently, she is staying with her husband. She filed the FIR out of misunderstanding.

8. PW.2 is Thunu Baishya. She deposed that she knew both the sides. The informant filed the FIR against the accused after a family dispute.

9. During cross-examination, she stated that the informant filed the FIR out of misunderstanding. The matter has been compromised between both the sides.

10. These are the materials on record.

11. I have carefully perused the evidence on record. Now the provisions of Sec. 498(A) I.P.C. read as under :

*498(A) IPC: Husband or relative of husband of a woman subjecting her to cruelty; Whoever being the husband or relative of the husband of a woman subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation for the purpose of this section "cruelty" means-*

*(a) Any willful conduct which is of such a nature as is likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*

*(b) Harassment of the woman where such harassment is with a view to coerce 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.*

12. Now, let us see whether the prosecution has been able to bring home the guilt of the accused person beyond all reasonable doubt. Let us appreciate the evidence on record. PW.1 who is the informant of the case stated that there was some anomaly between her and the accused. But, now the matter has been settled down and she has no objection if the accused is acquitted. PW.1 i.e. informant categorically deposed that the FIR has been filed out of misunderstanding. PW.2 fully corroborated the evidence of the informant.

13. In the totality of evidence on record and assessment thereof; this court landed in a decision that the prosecution has failed to prove the case beyond all reasonable doubt against the accused person namely Dwijen Baishya. Therefore, this court holds the accused person namely Dwijen Baishya not guilty of the offences under section 498(A) IPC and he is acquitted of the offences u/s-498(A) IPC and set at liberty forthwith.

14. Bail bond furnished by accused will remain in force till expiry of the appellate period.

15. Judgment is written in separate sheets and delivered in open court.

Given under my hand and seal of this court on this the 29<sup>th</sup> day of February, 2020.

**(Sri. K. C. Boro)**

**Chief Judicial Magistrate  
Nalbari.**

Dictated and corrected by me

**(Sri. K. C. Boro)**

**Chief Judicial Magistrate  
Nalbari**

*Jitul*

**APPENDIX:**

**Witnesses for the prosecution**

PW.1 - Bhanita Baishya, informant.

PW.2 - Thunu Baishya.

**Witnesses for the defence**

None

**Prosecution Exhibits**

Ext.1 - FIR.

Ext.1(1) - Signature of informant.

**Defence Exhibits**

None

**(Sri. K. C. Boro)**  
**Chief Judicial Magistrate**  
**Nalbari**