

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 23/09/2022

Case – PRC no. 43/2021

The case arose out of FIR lodged by informant Smti Renu Baishya, registered on 07/09/2020 vide Belsor P.S case no. 251 u/s 498(A)/323/34 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Smti Renu Baishya)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Sri Pabitra Baishya / A-1, S/o – Sri Dharani Baishya, Village – Sandheli, PS - Belsor & Dist – Nalbari.
Represented by	Mr. Pradip Kumar Sarma (Ld. Defence Advocate)

Date of Offence	05/09/2020 & 06/09/2020
Date of FIR	07/09/2020
Date of Charge sheet	30/09/2020 vide Charge sheet no. 142
Date of Framing of Charges	05/05/2022
Date of commencement of evidence	31/05/2022
Date on which judgment is reserved	N/A
Date of Judgment	23/09/2022
Date of the Sentencing Order, if any	N/A

J U D G M E N T

PROSECUTION CASE:

1. The prosecution case in brief as unfolded from the 'ejahar' dated 07/09/2020 filed by the informant Smti Renu Baishya is that FIR named accused no. 1 namely Pabitra Baishya is her husband and they were married around 8 years ago. After marriage, her husband and other co-accused persons started torturing her both mentally and physically. Out of her conjugal life with her accused husband, she gave birth to two children and after that the accused persons started assaulting her and drove her out of her matrimonial house. On 05/09/20 and 06/09/20, the accused persons formed a group and assaulted her and kept her young child away from her and

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thereafter drove her out of the house and finding no alternative she came to Belsor P.S. As her parental house is located in a different State, the accused persons used to torture her. Hence the case.

2. The said 'ejahar' was received and registered as Belsor PS case no. 251/20 u/s 498(A)/323/34 I.P.C. After completion of investigation charge-sheet no. 142 dated 30/09/2020 was submitted against accused Pabitra Baishya u/s 498(A)/323 I.P.C. Copy was furnished to the accused person. Charge u/s 498(A)/323 IPC was framed, read over and explained to the accused person to which the accused pleaded not guilty and claimed to be tried.

3. POINTS FOR DETERMINATION

(i) Whether the accused after marriage with the informant and on 05/09/20 & 06/09/20 at village Sandheli under Belsor P.S, subjected his wife / informant Renu Baishya to cruelty which was of such a nature as to cause grave injury to her life or limb and drove her out of house and thereby committed an offence punishable u/s 498(A) I.P.C?

(ii) Whether the accused after marriage with the informant and on 05/09/20 & 06/09/20 at village Sandheli under Belsor P.S, voluntarily caused hurt to the informant Renu Baishya and thereby committed an offence punishable u/s 323 I.P.C?

4. DECISION AND REASONS THEREOF:

The prosecution examined the informant / victim as PW-1. The defence declined to adduce any evidence. Finding no incriminating materials, the statement in defence of the accused person u/s 313 Cr.P.C was dispensed with. I have heard the argument advanced by learned counsel of both the sides and also perused the evidence available on record, my findings with reasons are as follows –

5. PW-1, Renu Baishya who is the informant cum victim deposed that accused is her husband and she was married to the accused 9 years ago. Out of the wedlock she gave birth to two children. An altercation took place between her and her husband and later out of misunderstanding she lodged FIR against her husband at Belsor PS. PW-1 deposed that she has compromised the matter with her husband and is living peacefully in her matrimonial home. Exhibit P-1 / PW-1 is the ejahar and Exhibit P-1(1) / PW-1 is her signature.

6. This is a case under Section 498(A)/323 IPC, where PW-1 who is the informant/victim of this case stated in her evidence that both she and her accused husband have compromised the matter and she is living peacefully together with her husband in her matrimonial home. Now, PW-1 being the main witness did not support her own case and she did not state anything incriminating against the accused person and as such the guilt of the accused person could not be established by the prosecution. Hence, the accused person is hereby

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declared not guilty of the offence u/s 498(A)/323 of the Indian Penal Code.

7. Considering the nature of evidence adduced by the prosecution, the accused Sri Pabitra Baishya is hereby acquitted from the charges u/s 498(A)/323 I.P.C. Bail bond is extended till the expiry of six months from today.

8. Judgment is pronounced in open court. Case is disposed of on contest.

9. Given under my hand and seal of this court on this 23rd day of September, 2022.

Chief Judicial Magistrate

Nalbari

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of release on bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C
A-1	Sri Pabitra Baishya	Police notice was served	Police notice was served	498 (A)/323 IPC	Acquitted	N/A	N/A

Chief Judicial Magistrate
Nalbari

List of Prosecution / Defence / Court Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
PW-1	Renu Baishya	Informant/victim

B. Defence Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

C. Court Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

Chief Judicial Magistrate
Nalbari

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit number	Description
1.	Exhibit P-1 / PW-1	Ejahar
2.	Exhibit P-1(1) / PW-1	Signature of informant

B. Defence:

Sr. No.	Exhibit Number	Description
Nil		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
Nil		

D. Material Objects:

Sr. No.	Exhibit Number	Description
Nil		

Chief Judicial Magistrate
Nalbari