

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 27/09/2022

Case – PRC no. 86/2021

The case arose out of FIR lodged by informant Smti Madhusmita Baishya, registered on 02/11/2020 vide Nalbari P.S case no. 591 u/s 498(A)/323/506/34 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Smti Madhusmita Baishya)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Sri Rajib Das / A-1, S/o – Sri Sanaram Haloi, Village – Poila, PS & Dist – Nalbari; 2. Smti Babita Haloi / A-2, W/o – Ramoni Haloi, Village – Chowk Bazar, PS & Dist – Nalbari.
Represented by	Smti Leena Baishya (Ld. Defence Advocate)

Date of Offence	31/10/2020
Date of FIR	01/11/2020
Date of Charge sheet	30/11/2020 vide Charge sheet no. 350
Date of Framing of Charges	27/09/2022
Date of commencement of evidence	27/09/2022
Date on which judgment is reserved	N/A
Date of Judgment	27/09/2022
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 01/11/2020 filed by the informant Smti Madhusmita Baishya is that she was married to accused Rajib Das around 8 months ago and after marriage the accused persons started torturing her mentally and physically. Her husband on some occasion messaged her elder brother and demanded dowry and cash and threatened to kill her if they failed to meet the demand and her elder brother gave Rs. 1.5 lakhs to the accused after selling one cow. On 31/10/2020, the accused persons assaulted her and when she informed the same to her family, her mother and her elder brother along with

PRC no. 86/2021

two persons came to her matrimonial house and then the accused persons assaulted her mother and elder brother and also slapped and punched her and hurled her to the ground by grabbing her hair. Hence the case.

2. The said 'ejahar' was received and registered as Nalbari PS case no. 591/20 u/s 498(A)/323/506/34 I.P.C. After completion of investigation charge-sheet no. 350 dated 30/11/2020 was submitted against accused Rajib Das and Babita Haloi u/s 498(A)/323/34 I.P.C. Copy was furnished to the accused persons. Charges u/s 498(A)/323/34 IPC was framed, read over and explained to the accused persons to which the accused pleaded not guilty and claimed to be tried.

### **3. POINTS FOR DETERMINATION**

(i) Whether the accused persons on 31/10/2020 or prior to that at village Poila under Nalbari P.S, in furtherance of common intention, subjected the informant Madhusmita Baishya to cruelty which was of such a nature as to cause grave injury to her life or limb to meet unlawful dowry demand and thereby committed an offence punishable u/s 498(A)/34 I.P.C?

(ii) Whether the accused persons on the aforesaid date, time and place in furtherance of common intention voluntarily caused hurt to the informant and thereby committed an offence punishable u/s 323/34 I.P.C?

4. **DECISION AND REASONS THEREOF:**

The prosecution examined two (2) witnesses. The defence declined to adduce any evidence. Finding no incriminating materials, the statement in defence of the accused persons 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, Madhusmita Baishya who is the informant cum victim deposed that accused Rajib Das is her husband and accused Babita Haloi is her sister in law. Due to some domestic matter, a verbal altercation took place between her and the accused persons and out of anger she filed this case. PW-1 deposed that later she has amicably settled the matter with the accused persons and she does not want to proceed with this case and also does not have any objection if the accused are acquitted from this case. Exhibit P-1 / PW-1 is the FIR and Exhibit P-1(1) / PW-1 is her signature.

6. PW-2, Jamuna Baishya deposed that informant is her daughter and accused Rajib Das is her son in law and accused Babita Das is the sister of Rajib Das. Her daughter got married to the accused around 2 years ago. On 01/11/2020 due to some domestic matter, a verbal altercation took place between her daughter and the accused persons. She went to the house of the accused persons to settle the matter between them and while trying to settle the matter, the accused persons

PRC no. 86/2021

entered into a verbal altercation with her also. PW-2 deposed that both she and her daughter have amicably settled the matter with the accused persons and hence they do not want to proceed with this case.

7. This is a case under Section 498(A)/323/34 IPC, where PW-1 (informant/victim) and PW-2 stated in their evidence that they have amicably settled the matter with the accused persons and they do not want to proceed with this case and also does not have any objection if the accused are acquitted from this case. Now, PW-1 being the main witness did not support her own case and she did not state anything incriminating against the accused persons and as such the guilt of the accused persons could not be established by the prosecution. Hence, the accused persons are hereby declared not guilty of the offence u/s 498(A)/323/34 of the Indian Penal Code.

8. Considering the nature of evidence adduced by the prosecution, the accused Sri Rajib Das and Smti Babita Haloi are hereby acquitted from the charges u/s 498(A)/323/34 I.P.C. Bail bonds are extended till the expiry of six months from today.

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

10. Given under my hand and seal of this court on this 27<sup>th</sup> 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	Rajib Das	Police notice was served	Police notice was served	498 (A)/323/34 IPC	Acquitted	N/A	N/A
A-2	Babita Haloi	Police notice was served	Police notice was served	498 (A)/323/34 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	Madhusmita Baishya	Informant/victim
PW-2	Jamuna Baishya	Other witness

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