

IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>ST</sup>

CLASS:::::NALBARI

**Present:** SMTI NADIA REHMAN, AJS, JMFC, Nalbari

**Dated:28.09.2022**

**PR Case No.1561 of 2019**

Ghograpar P.S. Case No.213/2019 u/s 498(A)/34 I.P.C.

COMPLAINANT :	State of Assam
REPRESENTED BY	Mr. Hem Chandra Sarma, Ld. APP
ACCUSED	1. Md. Eusuf Ali (A-1), 2. Miss Sajina Begum @ Katun
REPRESENTED BY	Smti. Anjali Barman Ld. Defence Counsel

Date of Offence	04-06-2019
Date of FIR	07-06-2019
Date of Charge sheet	29-06-2019
Date of framing charge	18-11-2021

Date of commencement of evidence	22-09-2022
Date on which judgment is reserved	N/A
Date of Judgment	28-09-2022
Date of the Sentencing Order, if any	Acquitted

### **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	Md. Eusuf Ali	Not arrested	N/A	U/s-498(A) of IPC	Acquitted	N/A	N/A
A-2	Sajina Begum @ Khatun	Not arrested	N/A	U/s-498(A) of IPC	Acquitted	N/A	N/A

## **JUDGMENT**

1. In this case the accused persons namely Md. Eusuf Ali, S/O:Lt.Umar Ali and accused Sajina Begum @ Khatun, W/O: Eusuf Ali both are of Village:Kayakuchi, Paisara, P.S.:Ghagrapar, Dist:-Nalbari (Assam), stood for trial u/s 498(A) of the IPC.

2. Prosecution case as unfolded from the ejahar, dated 07.06.2019, lodged before the O/C, Ghagrapar Police Station is that, informant got married with Eyasin Ali son of accused Eusuf Ali. After the marriage the accused persons demanded Rs.5 lakhs, furniture and silver/ golden ornaments from her as dowry. That on 04.06.2019 the accused person drove her out from the house by catching on her hair, pushed her and tore her wearing appeals. The accused persons also misbehaved the mother of the informant, pushed her and drove her out from the house. The accused persons also wanted the informant that if the demanded articles were not bring with her then she could not return back to her matrimonial house in future and give threaten to kill her. The accused persons also confined her husband Eyasin Ali. Hence, this case was arisen.

3. The police has registered the case as Ghagrapar P.S. case No.213/2019 u/s 498(A)/34 I.P.C. and investigated the matter. On completion of investigation, police filed charge sheet against the accused persons namely Miss Sajina Begum @ Khatun, Md. Eusuf Ali and Md. Ayub Ali @ Kayef Ali u/s 498(A)/34 I.P.C.

4. It is pertinent to mention here that vide order dtd., 28.02.2020 Ld. S.D.J.M.(S), held Md. Ayub Ali @

Kayef Ali is a Child in conflict with law after perusal of his H.S.L.C., pass certificate which shows his date of birth as 12.05.2004 and the occurrence took place on 04.06.2019. Accordingly, he is directed appear before the JJB, Nalbari.

4. During trial, the accused persons namely Miss Sajina Begum @ Khatun and Md. Eusuf Ali were allowed to go on bail. Relevant copies of the documents were furnished to them u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, sufficient materials were found against the accused persons u/s 498(A)/34 I.P.C. and accordingly charges were framed. The contents of the charges were read over and explained to the accused persons to which, they pleaded not guilty and claimed to be tried.

5. Prosecution in support of the case examined 1 (one) witness and declined to adduce further evidence. The examination of the accused persons namely Miss Sajina Begum @ Khatun, Md. Eusuf Ali u/s 313 of Cr.P.C. were dispensed with as no incriminating material were found against them. Defence declined to adduce evidence on their behalf.

6. This court has heard argument of both sides.

**POINT FOR DETERMINATION:**

7. Upon hearing and perusal of the record, this court has framed the following point for determination:

(i) Whether the accused persons Miss Sajina Begum @ Khatun, Md. Eusuf Ali at village:Kayakuchi under Ghograpar P.S., in furtherance of their common intention being the relative of the informant-cum-victim Rajumani Begum subjected her to cruelty in connection with his unlawful demand for money and thereby committed an offence under section 498(A)/34 I.P.C.?

**DISCUSSION, DECISION, AND REASONS THEREOF:**

8. This court has carefully gone through the entire evidence-on-record and materials placed before me.

9. The prosecution has examined only one witness namely, Rijumani Begum who is the informant-cum-victim of the case.

10. P.W.1 namely Rijumani Begum, the informant-cum-victim deposed in examination-in chief that she is the informant of this case. She lodged this case against her father-in-law Yusuf Ali and mother-in-law Sajina Khatun. She got married with Eachin Ali about 3 years ago. She has filed the case based on misunderstanding in relation to family related dispute and she left her matrimonial house. Presently, she is parted from her husband and has no relations with him and now she does not intend to proceed with this case and has no objection if the accused persons are acquitted from this case. Ext.P-1/PW-1 is the ejahar.

Cross-examination of PW1 was declined by defence.

11. Now, in order to bring home an offence under section 498 (A)/324 I.P.C., the prosecution has to prove beyond reasonable doubt that the accused persons have subjected the victim to cruelty due to non-fulfilment of dowry demand and that cruelty must be of such a nature that would likely to drive the victim to commit suicide or to cause grave injury or danger to life, limb or health of the victim or the harassment was with a view to coerce her to meet any unlawful demand for any property.

12. On perusal of the evidence-on-record, it is seen that there is no deposition which could suggest that the accused person had made any kind of dowry demand. No single instance of dowry demand has been mentioned by the victim in her evidence deposed in court. It appears that due misunderstanding in relation to family dispute she filed this case and for that reason she left her matrimonial house. Presently, she is separated from her husband and has no relations with him and now she does not want to proceed with this case and has no objection of the accused persons are acquitted from this case.

13. Therefore, the only witness examined by prosecution side, has not supported the prosecution case. Therefore, in absence of any such circumstances

where the prosecution could prove that the accused persons namely Miss Sajina Begum @ Khatun, Md. Eusuf Ali have tortured the victim for non-fulfilment of dowry demand to such an extent that it was likely that the victim would be driven to commit suicide, or she was voluntarily caused hurt with a dao, sec 498A/34 I.P.C., does not attract to. In result, there is no incriminating material found against the present accused persons.

14. This court therefore, finds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. As such, accused persons namely Miss Sajina Begum @ Khatun, Md. Eusuf Ali are not held guilty of the offence punishable u/s 498(A)/34 of I.P.C. and accordingly, they are acquitted and set at liberty forthwith.

15. The bail bond furnished on behalf of the accused persons shall remain in force for a further period of six months.

16. Given under my hand and seal of this court on this 28<sup>th</sup> day of September, 2022.

Smti. Nadia Rehman, LLM, AJS

J. M. 1<sup>st</sup> Class Nalbari.

## APPENDIX

### LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

#### A. Prosecution:

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	<b>Rijumani Begum</b>	<b>Informant-cum-victim</b>

**B. Defence Witnesses, if any: Nil**

**C. Court Witnesses, if any : Nil**

### LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

#### A. Prosecution:

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>1</b>	NIL	

**B. Defence : Nil**

**C. Court Exhibits: Nil**

**D. Material Objects: Nil**

Smti. Nadia Rehman, LLM, AJS



J. M. 1<sup>st</sup> Class Nalbari.