

IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>ST</sup>  
CLASS:.....NALBARI

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

**Dated:20.09.2022**

**PR Case No.236 of 2020**

Belsor P.S. Case No.129/2021 u/s 498(A)/294/506/34 of  
I.P.C. r/w Section 4/5 of D.P. Act.

COMPLAINANT :	State of Assam
REPRESENTED BY	Mr. Hem Chandra Sarma, Ld. APP
ACCUSED	1. Sri Amal Deka (A-1),
REPRESENTED BY	Sri Mantu Kalita Ld. Defence Counsel

Date of Offence	N/A
Date of FIR	12-04-2021
Date of Charge sheet	30-04-2021
Date of framing charge	28-04-2022
Date of commencement of	17-09-2022

evidence	
Date on which judgment is reserved	N/A
Date of Judgment	20-09-2022
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	Amal Deka	Not arrested	N/A	U/s- 498(A) of IPC, r/w 4 of the D.P. Act	Acquitted	N/A	N/A

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

1. In this case the accused person namely Sri Amal Deka, S/O:Sri Nagen Deka, Village:Jagara, P.S.:Belsor, Dist:-Nalbari (Assam), stood for trial u/s 498(A) of the IPC r/w section 4 of D.P.Act.

2. Prosecution case as unfolded from the ejahar, dated 12.04.2021, lodged before the O/C, Belsor Police Station is that, on 26.07.2020, the informant Pampi Haloi got married with the accused person socially as per Hindu rites and ritual. After fifteen days of her marriage the accused peron demanded Rs.6 lakhs as dowry along with Golden chain and motor cycle and started to torture her physically and mentally. That on 06.02.2021 at about 8 a.m., the accused person again demanded Rs.6 lakhs as dowry and when she showed her inability to bring the demanded dowry from her patental house, then the accused person drove her out from the house. She informed the matter to her parents over phone and from then she took shelter at her parental house. Hence, this case was arisen.

3. The police has registered the case as Belsor P.S. case No.129/2021 u/s 498(A) I.P.C. and investigated the matter. On completion of investigation, police filed charge sheet against the accused Amal Deka (A-1) u/s 498(A) I.P.C., r/w Section 4/5 of D.P. Act.

4. During trial, the accused Amal Deka (A-1) was allowed to go on bail. Relevant copies of the documents were furnished to him u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, sufficient materials were found against the accused person u/s 498(A) of I.P.C. r/w Section 4 of D.P. Act and accordingly charges were framed. The contents of the charges was read over and explained to the accused person to which, he 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 Amal Deka (A-1) u/s 313 of Cr.P.C. was dispensed with as no incriminating material was found against him. Defence declined to adduce evidence on his 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 person Amal Deka (A-1) being the husband of the informant during the subsistence of their marriage subjected her to cruelty in connection with his unlawful demand for money and thereby committed an offence under section 498(A) I.P.C.?

(ii) Whether the accused person Amal Deka (A-1) being the husband of the informant after 15 days of marriage with the informant Pampi Haloi and on 06.02.2021 demanded directly from her an amount of Rs.6 lakhs and thereby committed an offence under section 4 of D.P. Act?

**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, Pampi Haloi who is the informant as well as the victim of the case.

10. P.W.1 namely Pampi Haloi, the informant as well as the victim deposed in examination-in chief that she is the informant of this case. The accused person is her husband. She was married socially to the accused person on 26.07.2020. After fifteen days of her marriage, she started having arguments with the accused person on family related matters and after six months she came back to her mother's house and since then she was residing with her parents and three months after she lodged an ejahar at Belsor P.S. Presently, she and the accused have come to mutual agreement and have filed divorce on mutual consent and hence, she does not want to proceed with this case as she is starting her new life, she has no objection if the accused person is acquitted from this case. Ext.P-1/PW-1 is the ejahar and Ext.P-1(1)/PW-1 and Ext.P-1(2)/PW-1 are her signatures.

Cross-examination of PW1 was declined by defence.

11. Now, in order to bring home an offence under section 498 (A) I.P.C. r/w section 4 of D.P. Act, the prosecution has to prove beyond reasonable doubt that the accused person has 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 or valuable security or demanded Rs.6 lakhs directly from the informant/victim.

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 informant in her evidence deposed in court. It appears that due to some family related matters, arguments took place between the informant and the present accused and she came back to her mother's house and since then she is residing with her parents and presently she and the accused have come to mutual agreement and have filed divorce on mutual consent and hence she does not want to proceed with this case as she is starting her new life and she has no objection if the accused person is 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 Amal Deka (A-1) has 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, sec 498(A) I.P.C. r/w section 4 of D.P. Act does not attract to. In result, there is no incriminating material found against the present accused person.

14. This court therefore, finds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. As such, accused Amal Deka (A-1) is

not held guilty of the offence punishable u/s 498(A) I.P.C. r/w section 4 of D.P. Act and accordingly, he is acquitted and set at liberty forthwith.

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

16. Given under my hand and seal of this court on this 20<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>Pampi Haloi</b>	<b>Informant/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>	Ext.P-1/PW-1	<b>Ejhar</b>
<b>2</b>	Ext.P-1(1)/PW-1	<b>Signature of the informant</b>
<b>3</b>	Ext.P-1(2)/PW-1	<b>Signature of the informant</b>

#### B. Defence : Nil

#### C. Court Exhibits: Nil



**D. Material Objects: Nil**

Smti. Nadia Rehman, LLM, AJS

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