

**APPENDIX-12**

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS**

**TIHU, NALBARI**

Present : **Siddhartha Bora** , AJS

Date: 16-09-2022

**PRC Case No. - 37/2022**

**U/S 498(A) of I.P.C**

(FIR No. 106/2021, Police Station: Tihu, Nalbari)

COMPLAINANT:	State of Assam
REPRESENTED BY	PULEN BARMAN, LD. APP
ACCUSED	<b>1. Shri Biplab Das (A1)</b> S/o- Narayan Das Vill- Jalkhana P.S. – Tihu District – Nalbari (Assam)
REPRESENTED BY	Sri Nirmal Bharali, Ld. Advocate

**APPENDIX-13**

Date of Offence	20-07-2021
Date of FIR	15-10-2021
Date of Charge sheet	31-10-2021
Date of Framing of charges	13-05-2022
Date of commencement of evidence	08-08-22 & 05-09-22
Date on which judgment is reserved	05-09-2022
Date of Judgment	16-09-2022
Date of the Sentencing Order, if any	-

**Accused Details:**

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offences charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during trial for purpose of S. 428 Cr.P.C.
1.	Biplab Das	-	30-5-2022	U/S 498(A) I.P.C	Acquitted	-	

## **JUDGMENT**

### **Prosecution Story :**

1. The brief case of the prosecution leading to the filing of ejahar filed by Smti Daisy Das, wife of Biplab Das against the aforementioned accused person, in brief, is that the accused is the husband of the informant. On 09.03.21 they married socially by performing Hindu marriage rites. After few days of marriage the accused along with his family members used to complain with her as regards to the quality of the streedhan articles she took with her at the time of marriage. They even demanded wooden sofa set and Rs. 5,00,000/- to fetch it from her parents house. When she could not meet their demand, the accused persons along with her family members used to torture her mentally and physically and then also threatened her to drive her away from their house. On 18.07.21 around 09.00 pm, the accused in co-operation with other family members rebuked her with abusive words for not meeting their demand and also physically assaulted her by twisting her hairs. When her husband went for job on 19.07.21 their family members then drove her away from their house after keeping the streedhan articles.

### **Investigation :**

2. On receipt of FIR, the police registered a case being **Tihu P.S. Case No.- 106/2021** under section **U/S 498(A) of I.P.C.** The Investigating Officer Tarani Das of Tihu P.S. carried out

the investigation in the matter. During the course of investigation, the I.O. examined the witnesses u/s 161 Cr.P.C, prepared one sketch map of the place, where the offence was allegedly committed and then after completion of the investigation finally submitted the charge sheet finding sufficient materials against the accused person **Biplab Das** for the offence **u/s. 498(A) of I.P.C.**

**Appearance of the accused persons :**

3. On receipt of summons, the accused persons are called upon to enter trial and upon appearance of the accused, copies of relevant documents U/S 173 were furnished to the accused persons in compliance with Section 207 of Cr.P.C.

**Charge Explanantion against the accused person :**

4. Considering the relevant documents attached with the case records and hearing both the parties, this Court framed charge against the accused persons under section **U/S 498(A) of I.P.C** which is then read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

**Witness examined and Documents Exhibited :**

5. In order to bring home the offence, the prosecution side examined four witness including the informant Daisy Das as P.W.3 who is the victim also. The Prosecution side exhibited only one document i.e. Ext.1 – Ejahar lodged by the informant.

**Examination of accused u/s 313 Cr.P.C.**

6. The examination of the accused persons under section 313 of Cr.P.C. has been dispensed with finding no any incrementing materials against the accused person.
7. The defence side did not adduce any evidence.
8. After hearing arguments put forwarded by both the learned counsels appearing on behalf of their respective parties, and after going through all the evidence on records and documents attached with the case records, I have framed the following points for determination.

**Points for determination :**

- 1. Whether the accused person on 20-07-2021 or earlier at your house at Jalkhana committed cruelty by harassing Smti Daisy Das physically and mentally and you thereby committed an offence punishable u/s. U/S 498(A) of IPC ?***

**Discussions, Decisions and Reasons thereof :**

9. I have gone through the evidence adduced by the prosecution side. PW3, Smti Dasiy Das has adduced in her evidence that, she lodged this case against her husband on 15.10.21. As a result of anger and misunderstanding, this case was lodged and now they both parties settled the matter amicably outside court. Now both the parties are living

together and happily. So she does not want to proceed with this case.

Ext. P1/PW3- Ejahar

Ext. P1(1)/PW3 - Her signature

10. At the time of cross examination of PW3 it is testified that If the accused is released from all charge she does not has anything to say.

11. PW1, Dimbeswar Das has adduced in his evidence that the occurrence took place six months ago. The father of the informant/victim submitted application before them with a prayer to give protection to his daughter. He along with his villagers then tired to settle the matter amicably but same is not dissolved. The ejahar was lodged due to family quarrel. He could come to know when the informant/victim submitted application before them.

12. At the time of cross-examination, he testified that at the time of Gaon Bichar the accused side wanted to have a happy family with the informant but the informant did not accept it.

13. PW2, Hemanta Das has adduced in his evidence that the occurrence took place 5-6 months ago. There took place disputes in between the informant and the accused along with the accused's family. An application for Gaon Bichar was filed. In presence of both the parties they tried to settle their disputed matter. The accused side accepted the terms but the informant side did not.

14. The cross-examination of the witness is declined by the defence side.

15. PW4, Prasanna Kr. Das has adduced in his evidence that as a result of anger and misunderstanding, this case was lodged and now both parties settled the matter amicably outside court.
16. The defence side declined to cross-examine the PW.
17. Having gone through all the evidence on records, it appears that PW3 is the informant and victim of this case. Perusal of the evidence adduced by PW3, it transpires that she has not adduced any cogent evidence for the offence alleged to be committed by the accused persons under section **498(A) of I.P.C.** From the evidence as well as case record, it also appears that PW1 is the victim of this case. Being the victim of this case, she does not adduce any incriminating materials against the accused. Instead she adduced in her evidence that this case was lodged out of anger and misunderstanding and now both the parties settled the disputed matter amicably outside the Court. Now both the parties are living together and happily. Hence, she does not want to continue this case further. In her rebuttal evidence, she even stated that she does not have any objection if the accused is allowed to go scot free.
18. Now, from the evidence adduced by PW1 to PW4 other than PW3, all do not have adduced any incriminating materials as regards to the allegation in Ext.P1. All adduced that at the time of Gaon Bichar the accused side accepted the terms for compromise but the informant side did not accept it. But they

did not adduce any materials as to the allegation levelled in the Ext.P1. It is evident that the Ext.P1 which is the ejahar of the instant case is not corroborated to the evidence adduced by her.

19. Now, without having any corroboration, the accused cannot be held guilty, it must be corroborated or supported by other eye witnesses or any other documentary evidence. But, all these are found absent in the instant case.

20. Considering the above aspects, it is evident that the prosecution has failed to establish the allegation leveled against the accused person for the offence committed **U/S 498(A) of I.P.C** and therefore, the accused person is acquitted from the allegation levelled against them for the offence **U/S 498(A) of I.P.C** and he is set at liberty forthwith.

21. Bail bond remain extended for another 6 (six) months as per section 437(A) of the Cr.P.C.

22. Accordingly, the case is disposed of on contest.

Given under my hand and seal of this Court in presence of both sides on this 16<sup>th</sup> September' 2022.

**(Siddhartha Bora )**  
Signature  
Judicial Magistrate First Class, Tihu



**APPENDIX-14**

**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
PW1	Dimbeswar Das	victim/Informant
PW2	Hemanta Das	Hearsay Witness
PW3	Daisy Das	victim/Informant
PW4	Prasanna Kr Das	Hearsay Witness

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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
DW1		Nil

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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
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CW1		Nil
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**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution:**

Sl. No.	Exhibit Number	Description
1.	Exhibit- 1/PW3	FIR

**B. Defence:**

Sl. No.	Exhibit Number	Description
1.	Exhibit D-1/DW1	Nil
2.	Exhibit D-2/DW2	Nil

**C. Court Exhibits:**

Sl. No.	Exhibit Number	Description
1.	Exhibit C-1/CW1	Nil
2.	Exhibit C-2/CW2	Nil

**D. Material Objects:**

Sl. No.	Exhibit Number	Description
1.	MO1	Nil
2.	MO2	Nil

**(Siddhartha Bora )**

Signature

Judicial Magistrate First Class, Tihu