

ASLK030036102022

**APPENDIX-12****IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
LAKHIMPUR, NORTH LAKHIMPUR****Present: Smti. Kingkini Borah, AJS
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur,
Assam****(Date of Judgment: 13.03.2024)****(G.R. Case No. 2063/2021)(PRC 1118/2022)
Bihpuria P.S. Case No. 594/2021**

COMPLAINANT	STATE OF ASSAM
REPRESENTED BY	Smti. Ajanta Sarmah, Addl. P.P.
ACCUSED	1. Md. Abdul Hussain, Son of Late Amir Ali, Village: No.2 Sonapur, P.S: Bihpuria, District : Lakhimpur, Assam (A1)
REPRESENTED BY	Mr. H. Das, Advocate

APPENDIX-13

Date of offence	12.08.2021
Date of FIR	15.08.2021
Date of Charge Sheet	08.09.2022
Date of Framing of Charges	30.11.2023
Date of commencement of evidence	13.03.2024
Date on which judgment is reserved	13.03.2024
Date of Judgment	13.03.2024
Date of the Sentencing Order, if any	Nil

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 Sec. 428 Cr.P.C.
A1	Md. Hussain Ali	Nil	Nil	Sec. 498-A IPC	Acquitted	Nil	Nil

J U D G E M E N T

1. The brief matrix of the prosecution case is that one Musst. Husnehar Begum on 15.08.2021 had lodged an ejahar before the In-charge of Bongalmora out-post, under Bihpuria police station, alleging inter alia that about twenty five years prior to the lodging of the ejahar, she got married with the accused person and resided with the accused person as husband and wife. After few days of her marriage, the accused person started to torture the informant both mentally and physically by demanding dowry. On 22.08.2021 at about 10.00 PM, the accused person stabbed her with a 'dao' on her head, as a result of which she sustained injury. Hence, this case.
2. The Officer-in-charge of Bihpuria Police Station on receipt of the ejahar registered a case vide Bihpuria PS Case No. 486/2021 under section 498-A of the Indian Penal Code. The investigating officer, after completing the investigation, submitted charge sheet under section 498-A of IPC against the accused person, Md. Abdul Hussain (A1) to stand trial in the Court.
3. On receipt of the charge-sheet, cognizance of the offence under section 498-A of IPC was taken as per section 190(1)(b) of the Code of Criminal Procedure. Necessary copies were furnished to the accused person as per section 207 of CrPC after his

appearance before the Court. After considering the materials on record and hearing both the sides, charge under section 498-A of IPC was framed in writing against the accused. The charge was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

POINT FOR DETERMINATION:

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused A1 being the husband of the informant cum victim Musst. Husnehar Begum since after few days of her marriage, had subjected her to cruelty by committing physical and mental tortures upon her?

5. During the trial, the prosecution had examined one witness viz. Musst. Husnehar Begum as PW-1.

6. After the closure of the prosecution evidence, the statement of the accused person under section 313 of CrPC was recorded. The defence plea is of total denial and the defence side declined to adduce evidence in defence.

7. Both the sides advanced their respective arguments in this case.

DISCUSSION, DECISION AND REASONS THEREOF:

8. Now at first look let us look into the definition of Section 498-A of IPC.

9. **Section 498-A of IPC:-** Husband or relative of husband of a woman subjecting her to cruelty-- whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation- for the purpose of this section, **cruelty** means: (i) Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (ii) Harassment of the women where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

10. To decide the aforesaid point of determination let us have a scrutiny of the evidence of the PW-1.

11. PW-1 Musst. Husnehar Begum, i.e. the informant cum victim of this case deposed in her evidence that about twenty eight years back, she got married with the accused person. After marriage, both of them lived together as husband and wife. PW-1 further deposed in her evidence that about three years back, she had an altercation with the accused person over some family matters. She

out of anger had left the house of the accused and had lodged this case against the accused person.

12. PW-1 further deposed that later on, the dispute between both the parties got settled amicably and at present she is residing with the accused person. Therefore, she does not want to continue with the proceedings of this case any further against the accused.

13. What emerges from the testimony of PW-1 i.e. the informant cum victim is that there was only altercation between her and her husband i.e. the accused arising out of domestic matter and out of wrath she left the house of the accused and took shelter in her parental house and lodged the *ejahar* against the accused. So, from the evidence of PW-1 i.e. the informant cum victim who is the material witness of this case, it transpires that all that had happened was nothing but a mere verbal altercation and quarrel between a husband and a wife i.e. the accused and the informant cum victim over some family matter but later the matter of dispute between the victim cum informant and the accused person had been amicably settled. PW-1 did not state anything about the accused person subjecting her to any sorts of cruelty on demand of dowry. PW-1 has categorically stated that all that had happened between her and the accused person was a mere verbal altercation and nothing else.

14. So, no offence is made out against the accused person and consequently the aforesaid point of determination is held in negative.

15. The prosecution has failed to prove the case against the accused A1 under section 498-A of IPC beyond reasonable doubt. Hence, the accused A1 is found not guilty of the offence under section 498-A of IPC and as such he is acquitted from the said offence and is set at liberty.

Bail bonds are extended to for the further 6 (six) months from today.

Let a copy of this judgment be sent to the District Magistrate.

The judgment is delivered and operative part of the same is pronounced in the open court on this the 13th day of March, 2024.

Sd/-

(Smti. Kingkini Borah)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

Sd/-

(Smti. Kingkini Borah)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed & typed by-
Mohibul Islam, Stenographer

Contd. Appendix

APPENDIX - 14**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Musst. Husnehar Begum	Informant/eye witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Nil	Nil
DW2	Nil	Nil

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1	Nil	Nil
CW2	Nil	Nil

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1	Exhibit P-1/PW-1	Ejihar

B. Defence:

Sr. No	Exhibit Number	Description
1	Exhibit D-1/DW-1	Nil
2	Exhibit D-2/DW-2	Nil

C. Court Exhibits:

Sr. No	Exhibit Number	Description
1	Exhibit C-1/CW-1	Nil
2	Exhibit C-2/CW-2	Nil

D. Material Objects:

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

Sd/-
(Smti. Kingkini Borah)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur