

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

**PRESENT**

: Shri Haidar Ali, AJS  
Judicial Magistrate First Class  
Dhemaji, Assam.

**DATE OF JUDGMENT: 21.01.2023**

(PRC Case No. 709 of 2022)

(G.R. Case No. 349 of 2022)



|                |                                                                                                                             |
|----------------|-----------------------------------------------------------------------------------------------------------------------------|
| COMPLAINANT    | STATE OF ASSAM                                                                                                              |
| REPRESENTED BY | SRI RATUL DIHINGIA<br>LEARNED A.P.P.                                                                                        |
| ACCUSED        | <b>SRI NILAKANTA GOGOI (A-1)</b><br>S/O SRI KHAGEN GOGOI<br>VILL- CHOWKHAM GAON<br>P.S. DHEMAJI<br>DISTRICT- DHEMAJI, ASSAM |
| REPRESENTED BY | SRI ABHIJIT GOGOI<br>LEARNED DEFENCE COUNSEL                                                                                |

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|                                      |                         |
|--------------------------------------|-------------------------|
| Date of Offence                      | 12.08.2020 & 27.07.2022 |
| Date of FIR                          | 01.08.2022              |
| Date of Charge sheet                 | 10.09.2022              |
| Date of framing of charge            | 18.01.2023              |
| Date of commencement of evidence     | 18.01.2023              |
| Date of which judgment is reserved   | 21.01.2023              |
| Date of Judgment                     | 21.01.2023              |
| Date of the sentencing Order, if any | N/A.                    |



### ACCUSED DETAILS

| Rank of the accused | Name of the 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 Crpc |
|---------------------|---------------------|----------------|-------------------------|-----------------------|--------------------------------|------------------|-------------------------------------------------------------------------|
| A-1                 | Sri Nilakanta Gogoi | 07.09.2022     | 07.09.2022              | U/S 498-A of I.P.C.   | Acquitted                      | -                | -                                                                       |

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## JUDGMENT

### PROSECUTION CASE

1. The prosecution case in a nutshell as reflected from the ejahar lodged by the informant Smt. Parismita Dowara Gogoi and the crime as alleged by the prosecution side to have been committed by the accused is to the effect that the informant got married with the accused in the year 2010. After one year of her marriage the accused started torturing her both physically and mentally. On 12.08.2020 the informant lodged an ejahar at Dhemaaji Police station against the accused but the accused gave assurance to her that he shall not repeat torturing in future and the case was withdrawn by her. On 27.07.2022, the accused again abused her using slang words and physically assaulted her without any reasons. Hence, the case.



### INVESTIGATION

2. After lodging of the F.I.R., police registered a case as Dhemaaji P.S. Case No. 122/2022 under section 498-A of the I.P.C. and W.S.I.(P) Gitanjali Borborah taken up the investigation of the case. On completion of investigation, charge sheet was submitted against the accused under section 498-A of the I.P.C.

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### **COGNIZANCE AND APPEARANCE**

3. On finding prima facie materials against the accused under section 498-A of the I.P.C., cognizance was taken under the said section accordingly. The accused appeared after receiving summons and was allowed to go on previous bail.

### **FRAMING OF CHARGE**

4. The copies of relevant documents were furnished to the accused on his appearance. Considering the relevant documents and on hearing both the sides, a prima facie case against the accused was found. Accordingly, charge under section 498-A of the IPC was framed against the accused. The contents of the offence under section 498-A of I.P.C. was duly read over and explained to the accused to which he pleaded not guilty and claimed to be tried.



### **TRIAL**

5. Prosecution side examined one witness. On the prayer of prosecution, the evidence of other witnesses named in the charge sheet was dispensed with. Since there was no incriminating materials against the accused, the statement of accused under section 313 of Cr.P.C. was also dispensed with. The defense side declined to adduce evidence. After hearing argument of both sides and going through the evidence available on record. I have framed the following:

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### POINTS FOR DETERMINATION

- i. ***Whether, on 12.08.2020 & 27.07.2022, at chowkham Gaon under Dhemaji P.S., the accused being the husband of the informant Smti. Parismita Dowarah Gogoi subjected her to cruelty by harassing her both physically and mentally and by causing physical assault and thereby committed an offence punishable under section 498-A of the I.P.C.?***

### DISCUSSION, DECISION AND REASONS THEREFOR

1. P.W.1 Smt. Parismita Dowara Gogoi, who is the informant as well as the sole victim of this case deposed in her evidence in chief that she got married with the accused in the year 2010 and she has a son aged about 10 years with the accused. At present, she is residing happily with the accused. Out of anger and misunderstanding, she has lodged an ejahar against her husband/accused in the year 2022. The matter has been amicably settled between them. As the matter has been resolved between them and therefore, she does not want to proceed with the case. She proved the FIR as Ext. P-1/P.W.1 and her signature as Ext. P-1(1)/P.W.1. In her cross examination, she stated that she does not have any objection if the accused is acquitted.
2. From the perusal of the evidence, it transpires that the informant who is also the victim of the alleged incident has not supported the



prosecution case. No incriminating material can be derived from the evidence of the prosecution against the accused. There is no evidence from the prosecution to bring home the charge under section 498-A of the I.P.C. against the accused. Therefore, there is no difficulty in holding that prosecution has miserably failed to bring out any materials against the accused through its evidence. In the absence of any cogent evidence, I am not inclined to hold the accused guilty under section 498-A of the I.P.C.

**DECISION**

***The above point is decided in negative and goes in favour of the accused A1.***

**ORDER**

In view of the discussions made above and considering all the aspect, I am of the opinion that the prosecution has failed to prove its case under section 498-A of the I.P.C. against the accused A1. Accordingly, the accused A1 is found not guilty and acquitted of the charge under section 498-A of the I.P.C. and he is set at liberty forthwith.

The bail bond shall remain in force for a further period of six (6) months as per section 437-A of Cr.P.C.



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Judgment is pronounced in open court, in presence of both sides and given under my hand and seal of this court on this 21<sup>st</sup> day of January, 2023.

The case is disposed of on contest.

Typed and Corrected by:

 21.01.23.

(Shri Haidar Ali)

Judicial Magistrate 1<sup>st</sup> Class

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Dhemaji Dhemaji

 21.01.23.

(Shri Haidar Ali)

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**APPENDIX**

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

**A. Prosecution Witnesses:**

| <b>RANK</b> | <b>NAME</b>                    | <b>NATURE OF EVIDENCE</b> |
|-------------|--------------------------------|---------------------------|
| P.W. 1      | Smt. Parismita Dowara<br>Gogoi | Informant/Victim          |

**B. Defence Witnesses:**



| <b>RANK</b> | <b>NAME</b> | <b>NATURE OF EVIDENCE</b> |
|-------------|-------------|---------------------------|
|             | NIL         |                           |

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

| <b>RANK</b> | <b>NAME</b> | <b>NATURE OF EVIDENCE</b> |
|-------------|-------------|---------------------------|
|             | NIL         |                           |

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**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

| Sr. No. | Exhibit Number       | Description                   |
|---------|----------------------|-------------------------------|
| 1       | Exhibit P-1/P.W.1    | FIR lodged by informant/P.W.1 |
| 2       | Exhibit P-1(1)/P.W.1 | Signature of P.W.1            |



**B. Defence:**

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
|         | NIL            |             |
|         |                |             |

**C. Court Exhibits:**

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
|         | NIL            |             |

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D. **Material Exhibits:**

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
|         | NIL            |             |



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(Shri Haidar Ali) 21.01.23.

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(Shri Haidar Ali) 21.01.23.

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