

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

Present: Shri D. J. Bez, JMFC, Morigaon

(Date of Judgment: 27.03.2023)

PRC Case No. 889/2021

Under Section 498A r/w 34 of IPC

(FIR No. 628/20, registered u/s 498A of IPC at Moirabari
Police Station, Morigaon)

Complainant:	State Of Assam
Represented By:	Smti Sunita Bhagawati
Accused:	Md. Mubarak Ali (A1) Md. Abu Bakkar Siddique (A2) A1 and A2 are sons of Md. Fazar Ali Resident of Hahsarabari ward No.7, P.S. – Bhelowguri, Morigaon, Assam.
Represented By:	Md. B.H. Talukdar

Date of Offence	13.11.2020
Date of FIR	14.11.2020
Date of Charge Sheet	15.02.2021
Date of Framing of Charges	27.03.2023
Date of Commencement of Evidence	27.03.2023
Date on which judgment is reserved	NONE
Date of Judgment	27.03.2023
Date of the Sentencing Order	NONE

Accused Details:

Rank of the Accused	Name of the Accused	Date of Arrest	Date Released on Bail	Offences Charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of detention undergone during trial for the purpose of Sec. 428 Cr. PC
A1	Md. Mubarak Ali	Not arrested	N/A	U/s 498 A r/w 34 of IPC	Acquitted	N/A	N/A
A2	Md. Abu Bakkar Siddique	Not arrested	N/A	U/s 498 A r/w 34 of IPC	Acquitted	N/A	N/A

JUDGMENT

- 1.** The prosecution case in brief is that the informant namely Musstt. Majeda Khatun is the wife of Md. Mubarak Ali and Md. Abu Bakkar Siddique is the brother in law of the informant. Soon after Mubarak's marriage with the informant and specifically on 13.11.2020, both Mubarak and Abu Bakkar subjected the informant to mental and physical cruelty in demand of dowry of Rs. 1 lakhs and deserted the informant for good on 13.11.2020. Hence this case.

- 2.** The instant case was, registered under section 498A of IPC at Moirabari Police Station and after conclusion of the investigation I.O. submitted charge sheet under section 498A r/w 34 of IPC against the accused persons namely, Md. Mubarak Ali and Md. Abu Bakkar Siddique.

- 3.** After due consideration this court took cognizance of the offence under the same section and proceeded as per law. Accused persons appeared before the court for trial and copy of the relevant documents were furnished to the accused persons u/s 207 of Cr. P.C. After finding sufficient incriminating materials against the accused persons under section 498A r/w 34 of IPC formal charge was framed and the contents of the same was read over and explained to

the accused persons to which they pleaded not guilty and claimed to be tried.

4. During trial, prosecution has produced one witness. Finding no incriminating materials in the prosecution evidence the recording of statement under section 313 Cr PC of the accused persons was dispensed with. The accused persons also declined to adduce any evidence on his behalf.
5. I have heard the argument of both the sides at length. Considering all, the moot points for determining the instant case are as follows:

POINTS FOR DETERMINATION

- I. Whether A1 soon after his marriage with the informant namely Musstt. Majeda Khatun and specifically on 13.11.2020, in furtherance of his common intention with A2, subjected the informant to mental and physical cruelty in demand of dowry and thereby committed offence u/s 498A r/w 34 of IPC?

DISCUSSION & APPRECIATION OF EVIDENCE ON RECORD, DECISION AND REASONS THEREOF

In order to arrive at a definite conclusion on the above mentioned point for determination, I have carefully gone through the relevant portion of evidence on record and evaluated as per law, which is as follows:

6. Musstt. Majeda Khatun (PW1), who is the one and only victim of this case has stated in her evidence that she is the informant of this case and the accused person A1 is her husband and A2 is her brother in law. She had filed the instant case about 2-3 years ago out of some misunderstanding with the accused persons. On the date of the occurrence she had some verbal altercation with the accused persons and actually no such incident took place as that is mentioned in the FIR. The dispute in the instant case has already been resolved and she is living peacefully with them along with their 2 children. As such She does not want to proceed with the case. Exhibit P1/PW1 is her FIR and Exhibit P1(1)/PW1 is her signature. In her cross examination she admitted that she has no objection if the accused persons are acquitted in this case.

7. From the perusal of the prosecution evidence on record it appears that PW1, being the only victim of this case, did not corroborate to the allegations of the prosecution case and in fact stated that the case was instituted only out of misunderstanding and anger and that no such incident took place as that is mentioned in the FIR. Interestingly, PW1 also admitted in her cross examination that she has no objection if the accused persons are acquitted in this case.

8. DECISION: Considering the evidence on record it is apparent that no offence is made out against the accused person in this case. Hence the points for determination are decided in negative and in favour of the accused persons A1 and A2.

ORDER

9. After going through the only prosecution evidence on record, no incriminating evidence is found against the accused persons proving their involvement in the alleged crimes. The prosecution has totally failed to prove the guilt of the accused persons under section 498A r/w 34 of IPC beyond all reasonable doubts.

10. Hence, the accused A1 and A2 are acquitted of all charges and liable to be set at liberty.

11. The PR bond of the accused persons and its surety shall remain in force for a period of six months from today in compliance with section 437(A) Cr PC.

12. Case is disposed of on contest. Let the seized articles, if any, be disposed off or handed over to its lawful owner / person entitled, as per law.

13. Judgment is pronounced and delivered by me in the open Court.

14. Given under my hand and seal of this court on
this **27.03.2023** at Morigaon, Assam.

(Sri D. J. BEZ)
Judicial Magistrate First Class
Morigaon, Assam

Appendix
LIST OF WITNESSES

A. Prosecution Witnesses:

Rank	Name	Nature Of Evidence
PW1	Musstt Majeda Khatun	Eye witness

B. Defence Witnesses, if any: NONE

C. Court Witnesses: NONE

LIST OF EXHIBITS

A. Prosecution Exhibit:

Sl. No.	Exhibit Number	Description
1	Exhibit P1/PW1	FIR
2	Exhibit P1(1)/PW1	Signature of PW1

B. Defence Exhibit: NONE

C. Court Exhibit: NONE

D. Material Exhibit: NONE

(Sri D. J. BEZ)
Judicial Magistrate First Class
Morigaon, Assam