

**DISTRICT: NAGOAN
IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, HOJAI**

**GR CASE NO: 1088/12
U/S 498(A)/34 IPC**

**PROSECUTOR: STATE OF ASSAM
VERSUS
ACCUSED: DEBO BORAH AND ORS.**

PRESENT: BISWADEEP BARUAH, JMFC, HOJAI

ASSISTANT PUBLIC PROSECUTOR: SRI. SUNIL DAS

ADVOCATE FOR THE ACCUSED: SRI. A. J. SAIKIA

EVIDENCE RECORDED ON: 06/01/17

ARGUMENT HEARD ON: 06/01/2017

JUDGMENT DELIVERED ON: 17/01/2017

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Doboka Police Station by the informant Smt. Gita Hazarika on 25/06/12 to the effect that she was married to accused Debo Bora around twelve years prior to lodging of the ejahar, and started to co-habit with the accused as husband and wife. After a few months of marriage, the accused Debo Bora in conspiracy with the other accused, namely Bulu Bora, Narayan Chandra Bora, Moni Bora, Sita Bora and Geeta Bora(all members of the family of Debo Bora) started physically torturing the informant with an unlawful demand for dowry. On 21/06/12, the accused persons physically assaulted and tortured the informant in an inhuman manner. On 22/06/12, the informant left her matrimonial house and took refuge in the house of her parents.
2. The police upon receipt of the ejahar registered Doboka Police Station case no. 113/2012 u/s 498(A)/325/34 of IPC and started investigation in the case. After

completion of the investigation the police submitted chargesheet against the accused, Debo Bora, Bulu Bora, Narayan Chandra Bora, Moni Bora, Sita Bora and Geeta Bora under sec 498(A)/34 of IPC.

3. The accused were called upon to enter trial and copies of all the relevant documents were furnished to them. Upon hearing and on perusal of record, formal charge under sec 498(A)/34 of IPC was framed against the accused which was read over and explained to the accused to which they pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined one witness who is the informant; whereas the defense did not adduce any evidence.
5. The statement of defense of the accused u/s 313 Cr.P.C. was discarded with since the accused was not incriminated by the Prosecution Witness.
6. I have heard both the parties. I have heard the learned counsel for the accused persons who submitted that there is no material against the accused; as such the accused needs to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following point for determination-

(1) Whether the accused persons being the husband and in-laws, respectively of the informant, Gita Hazarika subjected her to cruelty with an unlawful demand of dowry in furtherance of their common intention and thereby committed offence punishable under sec 498(A)/34 of IPC?

8. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

DISCUSSION, DECISION AND REASONS FOR THE DECISION:

POINT FOR DETERMINATION NOS.1:

9. The prosecution examined one witness who is the informant of the instant case. The defense did not adduce any witnesses.
10. PW1, Smt. Gita Hazarika stated that the accused were her husband and in-laws respectively and she and accused Debo Bora were married around 12 years back as per Hindu rites. She stated that after some months of marriage, there arose frequent fights

between her and the accused over petty domestic issues and she filed the case in anger. Exhibit 1 being the ejahar and Exhibit 1(1) being her signature was proved by PW1.

11. In her cross examination, PW1 stated that the matter has been amicably resolved and she did not have any objection to the acquittal of the accused.

12. DECISION: In analyzing the depositions of the Prosecution Evidence, it is seen PW1 who is the informant has not implicated the accused in any manner. She has merely stated that there was an argument between her and the accused over petty domestic issues. Moreover it appears that the matter has been amicably settled and the informant and does not want to implicate the accused. PW1 further stated that she did not object to the acquittal of the accused. Hence in light of the evidence of the informant, the point of determination is answered in negative, in favour of the accused persons.

ORDER

1. In view of the discussions made above and the decision reached therein it is held that the prosecution has failed to prove the charge against the accused persons; the Prosecution witness has not supported the case and incriminated the accused persons in any manner; as such the accused Debo Bora, Bulu Bora, Narayan Chandra Bora, Moni Bora, Sita Bora and Geeta Bora are held not guilty of the charge under section 498(A)/34 of IPC and acquitted.
2. The case is disposed of accordingly.
3. The bail bonds of the accused stands extended for a period of six months.

Given under my hand and the seal of this court on this the 17th day of January, 2017 at Hojai.

Biswadeep Baruah,
Judicial Magistrate First Class, Hojai.

APPENDIX:

WITNESS FOR THE PROSECUTION:

PW1 GITA HAZARIKA

WITNESS FOR THE DEFENSE: NONE

EXHIBITS:

EXHIBIT 1 EJAHAR

EXHIBIT 1(1) SIGNATURE OF PW1