

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

**GR CASE NO: 1069/10  
U/S 498(A) IPC**

**PROSECUTOR: STATE OF ASSAM  
VERSUS  
ACCUSED: RAJEN BORO.**

**PRESENT: BISWADEEP BARUAH, JMFC, HOJAI**

**ASSISTANT PUBLIC PROSECUTOR: SRI. SUNIL DAS**

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

**EVIDENCE RECORDED ON:**

**ARGUMENT HEARD ON: 04/03/2017**

**JUDGMENT DELIVERED ON: 17/03/2017**

### **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. Basanti Boro on 27/10/10 to the effect that she was married to accused Rajen Boro around 13 years prior to the lodging of the ejahar, as per Hindu rites and started to co-habit with the accused as husband and wife. After a few years of marriage, the accused Rajen Boro started physically torturing the informant with an unlawful demand of dowry from her paternal house. On 25/10/10, the accused rajen Boro drove the informant out of her matrimonial house after assaulting her and since then she has been residing at her parental house.
2. The police upon receipt of the ejahar registered Doboka Police Station case no. 104/2010 u/s 498(A) of IPC and started investigation in the case. After completion of the investigation the police submitted chargesheet against the accused, Rajen Boro under sec 498(A) of IPC.

3. The accused was called upon to enter trial. However the accused failed to appear after repeated attempts, he was proclaimed as an absconder. Later the accused appeared and he was allowed to go on bail on 31/12/16 as it was made known that both the accused and the informant was staying together and their dispute settled amicably. The copies of all the relevant documents were furnished to him. Upon hearing and on perusal of record, formal charge under sec 498(A) was framed against the accused which was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.
4. During the trial the accused submitted that the informant Basanti Boro expired on 16/01/17. A copy of the medical certificate issued by the Dept. of Health Services was adduced. The same was compared and proved in Original and the death report was accepted. The Ld. A.P.P. submitted that since the death of the informant was proved, no purpose will be served by calling other witnesses as the prosecution story would not be strengthened by their testimonies alone. The Prosecution evidence was then closed. 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 being the husband of the informant, Basanti Boro subjected her to cruelty with repeated physical assaults and thereby committed offence punishable under sec 498(A) 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:**

9. During the trial the accused submitted that the informant Basanti Boro expired on 16/01/17. A copy of the medical certificate issued by the Dept. of Health Services was adduced. The same was compared and proved in Original and the death report was accepted. The Ld. A.P.P. submitted that since the death of the informant was proved, no purpose will be served by calling other witnesses as the prosecution story would not be

strengthened by their testimonies alone. The Prosecution evidence was then closed. The.

10. *DECISION*: In light of absence of a single prosecution witness, there was no material to incriminate the accused persons and hence the points of determination are answered in negative, in favour of the accused.

#### 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 person; as such the accused Rajen Boro is held not guilty of the charge under section 498(A) 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 17<sup>th</sup> day of March, 2017 at Hojai.

BiswadeepBaruah,  
Judicial Magistrate First Class, Hojai.