

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

**GR CASE NO: 1790/13
U/S 498(A) IPC**

**PROSECUTOR: STATE OF ASSAM
VERSUS
ACCUSED: NIZAM UDDIN.**

PRESENT: BISWADEEP BARUAH, JMFC, HOJAI

ASSISTANT PUBLIC PROSECUTOR: SRI. SUNIL DAS

ADVOCATE FOR THE ACCUSED: SRI. P. N. SINGH, Y. DEBNATH

EVIDENCE RECORDED ON: 20/03/17

ARGUMENT HEARD ON: 20/03/2017

JUDGMENT DELIVERED ON: 28/03/2017

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Lanka Police Station by the informant Must. Sowana Begum on 20/10/13 to the effect that she was married to accused Nizam Uddin on 03/07/13, as per Islamic rites and started to co-habit with the accused as husband and wife. After a few months of marriage, the accused Nizam Uddin started physically torturing the informant with an unlawful demand of goods and articles as dowry from her paternal house. On 18/10/13, the accused Nizam Uddin 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 Lanka Police Station case no. 379/2013 u/s 498(A) of IPC and started investigation in the case. After completion of the investigation the police submitted chargesheet against the accused, Nizam Uddin under sec 498(A) of IPC.

3. The accused was called upon to enter trial and 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. 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 being the husband of the informant, Sowana Begum subjected her to cruelty with an unlawful demand of goods and articles and physically assaulted the informant 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:

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, Must. Sowana Begum stated that the accused was her husband and they were married around 4 years back as per Islamic 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.

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; the Prosecution witness has not supported the case and incriminated the accused in any manner; as such the accused Nijam Uddin is held not guilty of the charge under section 498(A) of IPC and acquitted.
2. The case is disposed of on contest without cost.
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 28th day of March, 2017 at Hojai.

Biswadeep Baruah,
Judicial Magistrate First Class, Hojai.

APPENDIX:

WITNESS FOR THE PROSECUTION:

PW1 Sowana Begum

WITNESS FOR THE DEFENSE: NONE

EXHIBITS:

EXHIBIT 1 EJA HAR

EXHIBIT 1(1) SIGNATURE OF PW1