

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIOGAON, ASSAM.**

**GR Case No. 3149/2017**

**U/S 498(A) IPC**

**STATE OF ASSAM**

**-VS-**

**SRI SIRUMONI BORA**

**S/O SRI BORUN BORA**

**R/O NIZKOPAMERA, P/S MIKIRBHETA**

**DIST: MORIOGAON, ASSAM**

**..... ACCUSED PERSON.**

**PRESENT: -**

**SMTI. ANAMIKA BARMAN, LL.M., A.J.S.**

**JUDICIAL MAGISTRATE FIRST CLASS**

**MORIOGAON, ASSAM.**

**FOR THE STATE: -**

**MR. M. ISLAM, LEARNED A.P.P.**

**FOR THE ACCUSED: -**

**MR. K. BORA, LEARNED ADVOCATE.**

**EVIDENCE RECORDED ON: - 17.09.2019.**

**ARGUMENT HEARD ON: - 09.10.2019.**

**JUDGMENT DELIVERED ON: - 09.10.2019.**

**JUDGMENT**

1. The brief of the prosecution story is that one Smt. Rupa Gogoi filed an FIR before the Officer-in-Charge, Mikirbheta P.S. on 19.12.2017 alleging inter-alia that her daughter/victim Smt. Garima Gogoi got married to the accused Sri Sirumoni Bora about

7 (seven) years prior to the filing of the FIR. However, after the marriage, the accused person started inflicting mental and physical tortures upon the victim in connection with dowry demand. On 18.12.19, the accused person assaulted the victim and drove her out of her matrimonial house. Hence, the case.

2. On receipt of the ejahar, Mikirbheta P.S. Case No. 446/17 u/s 498(A)/307 of the IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused person Md. Sirumoni Bora u/s 498(A) of the IPC.

3. In pursuant to the court-process, the accused person appeared before the court. Copies of relevant documents were furnished to the accused person u/s 207 of Cr. P.C. After hearing the learned counsels for both the sides and on finding sufficient prima facie materials to presume that the accused person had committed offence punishable u/s 498(A) of IPC, charge under the said section was framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. In support of its case, the prosecution examined only 2 (two) witnesses. In view of the evidence recorded, the Ld. APP verbally submitted to close PWs as the prosecution declined to adduce further evidence. After closure of prosecution evidence, statement U/S 313 of Cr.P.C. has been dispensed with as found not necessary. Heard the arguments put forward by the learned Counsels for both the sides as well as gone through the evidences available on record.

5. **Point for determination:**

*(I) Whether the accused person, being the husband of the victim Smt. Garima Gogoi, subjected her to cruelty, and hence committed an offence u/s 498(A) IPC?*

**Discussion, Decision and Reasons thereof:-**

6. In this case, the prosecution examined only 2 (two) witnesses. The victim Smt. Garima Gogoi was examined as PW-1 and the informant Smt. Rupa Gogoi was examined as PW-2 to prove the charge against the accused person.

7. Before going to decide the points for determination, let me describe the evidence in brief. *In her examination-in-chief* PW-1/victim, Smt. Garima Gogoi, deposed that the informant is her mother and the accused person standing on the dock is her husband. She got married to the accused person about 8 (eight) years prior to the date of her deposition and the informant filed the instant case about 2 (two) years ago. She further deposed that on the date of the incident she had a verbal altercation with the accused person over some family matters and the informant filed the instant case in that misunderstanding. At present PW-1 is peacefully living with the accused person in his house as his wife.

8. *During her cross examination*, PW-1 stated she does not have any objection if the accused person is acquitted.

9. *In her examination-in-chief* PW-2/informant, Smt. Rupa Gogoi, deposed that she is the informant and the accused person standing on the dock is her son-in-law. Her daughter got married to the accused person about 8 (eight) years prior to the date of her deposition and PW-2 filed the instant case about 1 (one) year ago. She further deposed that on the date of the incident her daughter had a verbal altercation with the accused person over some family matters and PW-1 filed the instant case in that misunderstanding. At present her daughter is peacefully living with the accused person in his house as his wife.

10. On perusal of the evidences recorded by the prosecution side, it appears that both the informant and the victim are not willing to proceed with the case further and they stated that the case was filed out of some misunderstanding. At present the victim is living with her husband/accused person peacefully and they do not have any objection if the accused person is acquitted.

11. In view of the evidence on record, the prosecution side declined to adduce further evidence. This being so there is nothing in the evidence of prosecution

warranting conviction of the accused person u/s 498(A) IPC as the evidence of the prosecution witness is found to be not acceptable and reliable.

12. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 498(A) IPC against the accused person beyond reasonable doubt. Accordingly, the accused person is found not guilty of the offence charged against him and is acquitted.

### **ORDER**

1. In the light of the above decision, the accused person is acquitted of the charge under section 498(A), IPC and set at liberty forthwith.
2. The bail bond of the accused person is extended for a period of 6(six) months as per section 437-A, CrPC.
3. Given under my hand & seal of this Court and delivered in the open Court on this 9<sup>th</sup> day of October, 2019.

Dictated and corrected by me

(Miss. Anamika Barman)

JMFC, Morigaon

**(ANAMIKA BARMAN)**

**Judicial Magistrate First Class**

**Morigaon, Assam**

**APPENDIX**

**PROSECUTION WITNESSES:**

- 1. P.W.-1, SMT. GARIMA GOGOI.**
- 2. P.W.-2, SMT. RUPA GOGOI.**

**DEFENCE WITNESSES:**

**NIL**

**EXHIBITED DOCUMENTS:**

**NIL**

**(ANAMIKA BARMAN)  
JMFC, MORIGAON  
ASSAM**