

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS, Hatsingimari, Dhubri**

**G. R. CASE NO: 590/2016**

**U/S. 498 (A) I.P.C**

**STATE**

**VS**

**Bosir Zamal @ Basir**

**PRESENT: PRASENJIT DAS,  
JUDICIAL MAGISTRATE FIRST CLASS,  
Hatsingimari, Dhubri**

**APPEARANCES:**

**B.Islam, ADDL. P. P. FOR THE STATE**

**Lutfur Rahman, ADV., FOR THE DEFENCE**

**DATE OF EVIDENCE: 24-01-2017**

**DATE OF ARGUMENT: 24-01-2017.**

**DATE OF JUDGEMENT: 25-01-2017.**

**JUDGEMENT**

1. The brief facts of the prosecution case as is revealed from the Ejahar is that the informant, Kaseda Khatun, PW1, was physically and mentally tortured after the second marriage of her husband/accused. It is also her allegation that that the second wife along with her husband/accused together tortured her mercilessly. As a result an Ejahar was lodged by the informant; and the same was registered as Mankachar P.S Case No 376/16 u/s 498(A)/342/325/326/307/34 I.P.C was registered.

2. The police took up the investigation and on completion of investigation submitted a charge sheet u/s 498 (A) I.P.C, read with section 4 of Dowry Provision Act, against only the husband/accused, namely, Bosir Zamal and sent him for trial.

3. On appearance of the above named person before this Court, the relevant copies were furnished to him and thereafter vide order dated 3/11/16, a charge under section 498 (A) I.P.C read with section 4 of Dowry Provision Act, was framed against him and the contents of the said charge was read over and explained to him to which he pleaded not guilty and claimed to be tried. Accordingly, the trial of the case against the accused Bosir Zamal commenced.

4. During the trial, the prosecution side adduced its evidence and only one witness was examined in support of the prosecution case, who is the informant/victim of this case and after the prosecution evidence was closed, as it produced no more witness, the examination of the accused person u/s 313 Cr.P.C was dispensed with as there were no incriminating materials against him regarding the alleged occurrence in the evidence on record. The Defence adduced no evidence.

5. Heard argument advanced by the learned. Addl. P. P. and learned Defence counsel and perused the evidence on record.

**6. FOLLOWING POINT HAS BEEN SET UP FOR DETERMINATION**

- (a) Whether the accused committed the offence under section 498 (A) I.P.C against the accused person namely Kaseda Khatun?**

**7. DISCUSSION ON THE POINT FOR DETERMINATION AND DECISION ARRIVED THEREON WITH REASONS:**

7.1. Evidence of PW1, the informant of this case who filed the Ejahar, reveal that she deviated from the facts narrated by her in the Ejahar and failed to corroborate and substantiate the prosecution story. According to PW1, she filed the Ejahar out of misunderstanding and she does not know the contents of Ejahar and that she has been living with her husband. Thus, from the evidence on record it is found that the testimony of PW 1 failed to bring any incriminating evidence against the accused person and the role played by him.

7.2 The prosecution side did not examine any other witness thereafter. The informant did not state any incriminating evidence against the accused persons.

7.3 The burden of proof is on the prosecution to prove its case beyond all reasonable doubts and considering all the evidence on record the prosecution has nothing to establish its case and as such the charge levelled against the accused person was not established beyond all reasonable doubts by adducing cogent evidence.

7.4 Considering all I deemed it fit to acquit the accused person, Bosir Jamal, and as such he is not found guilty of offences u/s 498 (A) I.P.C and he is set at liberty forthwith. The bail bonds of the accused persons shall remain in force for a period of 6 months.

ORDER

The case of the prosecution has no merit as it has nothing on record to produce sufficient incriminating evidence against the accused person. The accused person namely Bosir Zamal is acquitted and set at liberty forthwith.

The bail bonds against the accused persons shall remain in force for a period of 6 months in view of section 437-A Cr.P.C.

Given under my hand and seal of this Court on this the Twenty Fifth day of January 2017.

Prasenjit Das, A.J.S

**APPENDIX**

A. Prosecution Exhibit:

B. Defence Exhibit: Nil.

C. Exhibit produced by witness: Nil.

D. Prosecution Witnesses:

(a) P. W. 1: Kaseda Khatun/ Informant

E. Defence Witnesses: Nil.

F. Court Witness: Nil.