

**IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),
AT GOHPUR, SONITPUR**

**P.R.C. – 01/2019
U/S.: 498(A) of I.P.C.**

S T A T E

-Versus-

Sri Surajit Dutta....accused person

**Present: Smt. Pooja Sinha, AJS,
Sub-Divisional Judicial Magistrate (M)
Gohpur**

Advocate appearing for the State	: Smt. Barnali Chetia
Advocate appearing for the Accused	: Sri Kulen Das
Dates of recording evidence	: 13.05.2019, 03.06.2019, 26.06.2019, 16.08.2019, 19.10.2019 & 19.11.2019
Date of hearing argument	: 03.12.2019
Date of delivering Judgment	: 03.12.2019

JUDGMENT

- 1. The case of the prosecution in brief is that,** after marriage of Tumpa Das with Surajit Das about 4 years back from 07.05.18 at Gohpur, she was inflicted to both mental and physical torture by her husband Surajit Das along with his other family members. Further 2 years back due to the cruelty inflicted upon while she was 7 months pregnant miscarriage was caused.
- 2. In this regard, Smti. Tumpa Das Dutta filed an ejahar on 07.05.2018, the Officer-in-Charge, Gohpur Police Station registered a case as Gohpur P.S. Case No. 12/18, U/S 498(A) of I.P.C. The police conducted investigation and thereafter submitted charge-sheet against the accused person Sri Surajit Dutta for trial under section 498(A) of I.P.C.**

3. In due course, the accused person entered appearance. He was furnished with the copies as required under section 207 Cr.P.C. Accordingly, formal charge is framed U/S 498(A) of I.P.C. against the accused person and the particulars of the offence was read over and explained to him, to which he pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution examined six (6) witnesses. Statement U/S 313 of Cr.P.C. of the accused person is recorded. Defence plea was of total denial. Defence opted not to adduce evidence.
5. **Point for determination :**
 - I. **Whether the accused person about 4 years back being the husband of the informant Smti. Tumpa Das Dutta after marriage subjected her to cruelty as defined under section 498(A) of I.P.C?**
6. **Discussion, Decision and Reasons thereof:** -I have heard the learned Counsel appearing for the State. Also heard the learned Counsel appearing for the accused persons. Upon hearing the learned Counsel for the parties and on perusal of the records, I am of the considered opinion to hold the following :-
7. **Point of Determination No. I :**
8. **P.W.1- Md. Muntaz Ali, he in his examination-in-chief deposed that** Tumpa Das and accused person are husband and wife. That, the house of Surajit Dutta is about 1 k.m. away from his house. He has no knowledge as to why the case was filed.
9. **His cross-examination was declined by the defence side.**
10. **P.W.2- Sri Sumani Lakra, he in his examination-in-chief deposed that** he is acquainted with both sides. That, he is the neighbor of the accused person. That, about 2 years back during evening hours he heard a commotion at the house of the accused person and on inquiry came to know that the wife of accused person came out of his house along with her family members. That, P.W.2 have witnessed Surajit making his wife do hard labour during her pregnancy and also other household works. That, on the day when she came out with her family members, she was unwell and

miscarried her child due to lack of treatment as not provided to her. Hence, she returned to her maternal house.

11. During his cross-examination he deposed that police recorded his statement and he did not state about any torture inflicted upon accused person's wife as police did not ask about the same. That, the wife of the accused person told him about the torture inflicted upon her by the accused person. That, he cannot state about the actual cause about the death of the unborn. That, previous to the said incident he never heard any incident taking place at the house of the accused person. Denied that he has deposed falsely in favour of the accused person.

12. P.W.3- Smti. Tumpa Das, she in her examination-in-chief deposed that she has filed the case against her husband. That, about 3 years back she married accused Surajit Dutta as per prevalent social customs. That, they had a peaceful family life for a period of 2 months. Thereafter, she was physically assaulted by her husband and also verbally abused. That, about 1 year back when she was 7 months pregnant due to lack of proper medical care she miscarried. That, her brothers took her for medical treatment at Biswanath. Thereafter, she was not allowed to enter the house of her husband. That, her husband or his family members are not maintaining any kind of relationship or communication with her at present. She exhibited the ejahar as Ext.1 and identified her signature thereon.

13. During her cross-examination she deposed that she does not remember what is written in Ext.1. Denied that she willfully did not want to do the duties of a responsible wife. That, when she filed the case against her husband she was at her maternal house.

14. P.W.4- Smti. Jachpina Lakra, she in her examination-in-chief deposed that she is acquainted with both sides. That, he is the neighbor of accused Tilku. He has no knowledge as to why his wife filed the instant case against his husband.

15. Her cross-examination was declined by the defence side

16. P.W.5- Smti. Lalita Devi, she in her examination-in-chief deposed that she is acquainted with both sides. That, about 1 ½ years back from the date of his deposition he heard hue and cry at the house of accused. That,

Tumpa Das wife of accused left his house. That, he has no further knowledge.

17. Her cross-examination was declined by the defence side.

- 1. P.W.6- S.I. Alok Dutta Gupta, he in his examination-in-chief deposed that** on 07.05.18 he was posted as 2nd officer at Helem P.S. That, on receipt of ejahar filed by Smti. Tumpa Das Dutta, O/C registered a case and the case was endorsed to him for investigation. That, on the same day he recorded the statement of the victim at the police station. That, on 10.05.18 he proceeded towards the place of occurrence Amlokhi Daloni. That, he prepared the sketch map. That, he recorded the statement of the witnesses. That, 15.05.18 he recorded the statements of Mukul Dutta, Meera Dutta and Surajit Dutta at the police station. That, after completion of preliminary investigation he found sufficient materials against accused person Surajit Dutta and submitted charge-sheet U/S 498(A) of I.P.C. against him. That, he exhibited the sketch map as Ext.2 and charge-sheet as Ext.3 and identified his signatures thereon.
- 2. During his cross-examination he deposed that** he did not send the victim for medical examination. P.W.2 Sumani Lakra did not state before him that informant was very sick, hence, her parents brought her to their house. P.W.2 Sumani Lakra did not state before him that due to physical torture upon informant she miscarried. Denied that he has not investigated the instant case in accordance with law. Denied that he has filed a false a case against the accused.
- 3. In the light of the above testimonies and on perusal of the materials on record, the following facts are observed:**
 - I. The informant cum victim filed the case after two years of the alleged incident. Further, no cogent cause is mentioned for filing of the ejahar after such a long time. Hence, there is every possibility of misrepresentation of facts and filing of a false case.**
 - II. The facts as put forward by the victim P.W.3 is not corroborated by any other witnesses. P.W.2 stated that he has seen victim doing hard labour and other house hold works at the house of**

accused, but it does not point towards offence in itself U/S 498 A of I.P.C.

III. P.W.1 has no knowledge about the case in hand. P.W.4 and P.W.5 have stated nothing as alleged, only heard of commotion on the day when victim left the house of accused. Further, no date or time corroborated in the instant case.

IV. Further, nothing conclusive is placed before Court to hold that her pregnancy got terminated due to willful negligence of the accused person.

V. Further, in the ejahar victim stated that she was inflicted to cruelty by all her husband and his other family members. But, said fact is not testified in her evidence.

VI. Thus, considering the above observations the evidence put forward by prosecution is not found credible and cogent enough to hold the accused guilty of inflicting cruelty as defined U/S 498 (A) of I.P.C.

- 4. Hence, I hold that prosecution has failed to prove the guilt of the accused persons beyond all reasonable doubt that about 4 years back at Gohpur being the husband of the informant Smti. Tumpa Das Dutta after marriage subjected her to cruelty as defined U/S 498(A) of I.P.C.**
- 5. In the result, the accused person Sri Surajit Dutta is hereby acquitted on benefit of doubt U/S 498(A) of I.P.C. and set at liberty forthwith.**
- 6. Bail bonds furnished are hereby extended for a period of 6 (six) months.**
- 7. The case is disposed of on contest.**

Given under my hand and seal of this court on this the
03rd day of December, 2019 at Gohpur.

(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur

Dictated and corrected by me

(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur

APPENDIX

Prosecution Witness-

P.W.1- Md. Muntaz Ali

P.W.2- Smti. Sumani Lakra

P.W.3- Smti. Tumpa Das

P.W.4- Smti. Jachpina Lakra

P.W.5- Smti. Lalita Devi

P.W.6- S.I. Alok Dutta Gupta

Defence Witness-

Nil

Prosecution Side Exhibits-

Ext.1- Ejahar

Ext.2- Sketch map

Ext.2- Charge sheet

Defence Side Exhibits-

Nil

**(Pooja Sinha)
Sub-Divisional Judicial Magistrate (M)
Gohpur**