

**District : Bongaigaon**

**BEFORE THE ASSISTANT SESSIONS JUDGE ::::: BONGAIGAON**

Present: - Sri R. Medhi, AJS

**Sessions Case No.36(M) of 2018.**

(Arising out of G.R Case No.629/2017)

**State of Assam**

**Vs.**

**Hasar Ali.**



**Date of Evidence :** 6/12/2018, 18/12/2018 and 14/2/2019  
**Date of Argument :** 14/2/2019  
**Date of Judgment :** 14/2/2019

**Advocate for the Prosecution:** - Mr. Tapan Bhowmick, Learned Additional P.P.

**Advocate for the Defence:-** Mr. Tapan Kr. Das, Learned Legal Aid Advocate

**::: J U D G M E N T :::**

1. On 5/6/2017 the Officer-in-charge of Manikpur Police Station has received an FIR from one Mokbul Ali wherein it was alleged that his daughter Sajeda Khatun aged about 30 years was married to Hasar Ali about 10 years back and since after marriage the husband Hasar Ali used to torture his daughter mentally and physically without any reasons and out of their wedlock they have to minor children. Subsequently, on 5/6/2017 at about 2:30 A. M. accused Hasar Ali gave blow on the head and on different places of the body of Sajeda Khatun with a "dao" and caused injuries on her body.
2. On receipt of the aforementioned FIR, the Officer-in-charge of Manikpur Police Station had registered a case as Manikpur P.S.

Sessions Case no. 36(M)/2018  
 State -Vs- Hasar Ali

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 14.2.19  
 Asstt. Sessions Judge,  
 Bongaigaon

Case no. 219/2017 under Section 498(A)/326/307/34 IPC and the Officer-in-charge Mr. Uttam Kr. Brahma, SI had himself investigated the case. After completion of the investigation, on 30.6.2017, charge-sheet under Section 307/323/498(A) of the Indian Penal Code was laid against the accused Hasar Ali. The committed Court vide order dated 5/7/2018 has committed the case for disposal against the accused Hasar Ali, who was in judicial custody at the time of commitment of this case.



3. On 04/9/2018 Charge, u/s 307/323/498(A) IPC, was framed against the accused Hasar Ali. The Charges were read over and explained to the accused person and, on being asked, he refused to plead guilty and claimed to be tried.
4. The prosecution side has examined 5 numbers of witnesses. After completion of the prosecution evidence the accused Hasar Ali is not examined under Section 313 Cr.P.C as because the prosecution witnesses have not implicated any materials against him. The accused has declined to adduce evidence for his defence.
5. **The point to be determined in this case is as follows:-**

*"Whether on 5/6/2017 accused Hasar Ali attacked his wife with a "dao" with intent to cause her murder and voluntarily caused hurt to his wife Sajeda Khatun @ Begum and whether after marriage and more particularly in the year 2017 accused above named has committed mental and physical cruelty upon his wife and that cruelty was of such a nature as was likely to endanger the life or limb of the victim?"*

I have gone through the entire materials on record, including the oral testimonies of the witnesses, very carefully as well as heard argument advanced by Ld. Public Prosecutor and Ld. Defence counsel.

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14.2.19  
Asstt. Sessions Judge,  
Bongaigaon



6. The prosecution witness no. 1 Mokbul Ali, who is the informant of this case had stated in his evidence that Sajeda Begum @ Khatun, the victim of this case is his daughter and she was married to the accused Hasar Ali about 10/12 years back and out of their wedlock they have two children. According to him the incident of this instant case took place more than 1 year ago and he was informed by the relatives of the accused that the accused has assaulted his daughter and his daughter was seriously injured. After getting the information PW1 went to the village of the accused person and there from he came to know that his daughter has been sent to Manikpur Government Hospital for her treatment. Later on, his son took his daughter to Barpeta Medical College and Hospital for further treatment. According to PW1 he saw the injuries of his daughter on her head, face and other parts of the body. Further he stated that doctor has stitched the injuries on the head.
7. During course of cross-examination he admitted that he had not seen the occurrence of the incident and he also did not knew of any quarrel in between the accused and his daughter. Further he admitted that he have not gone to Barpeta Medical College and Hospital.
8. PW2 Ismottara Bibi in her evidence has stated that the incident took place about 1 to 1½ years back. From the day of occurrence of the incident she heard "hulla" and then she went to the house of the accused Hasar Ali and she saw that Sajeda was injured and lying on the floor of the house. According to PW2 there was injury on the head and other parts of the body of Sajeda Begum @ Khatun and blood was coming out. After the incident some people took her to hospital. PW2 has stated that beyond this she does not know what had happened. During cross-examination PW2 has admitted that she has not seen as to how injury was caused on her and

14.2.19  
Asstt. Sessions Judge,  
Bongaigaon

according to her accused was not present when she went to the place of occurrence.

9. PW3 Sajeda Begum @ Khatun, who is the victim of this case has stated in her evidence that the incident took place on 5/6/2017 at about 3 A.M. On the fateful day due to some misunderstanding with her husband she had quarreled with him and since it was dark at the time of the occurrence of the incident she somehow fallen down inside her house and got some injury in her body. PW3 also confirmed that her husband Hasar Ali who is accused in this case is no way connected and had not caused any injury to her body. PW3 further stated that after the occurrence of the incident she falsely informed to her father narrated a concocted story and hearing her story her father lodged the FIR. PW3 further stated that if her husband is released from this case she want to live along with him with their two minor children.

10. PW4 Mahammad Ali has also stated in his evidence that on 5/6/2017 at about 2 to 2:30 A.M. Sajeda Begum @ Khatun had quarreled with the accused due to some misunderstanding and according to him Sajeda Begum @ Khatun had fallen down inside her house and got injury. But later on Sajeda Begum @ Khatun came to him and narrated a concocted story and for that he helped her to go from her husband's house to her parents' house and thereafter her father had lodged the FIR hearing the concocted story from Sajeda Begum @ Khatun. PW4 further stated that accused Hasar Ali is no way connected with the incident and on present both the accused and Sajeda Begum @ Khatun are willing to live as husband and wife along with their two minor children.

11. PW5 Manju Begum, in her evidence has stated that she has not seen the occurrence of the incident and that is why she does not know what had happened on the fateful night.

12. From careful scrutiny of the evidence of the PWS, including the



14.2.19  
Asstt. Sessions Judge,  
Bongaigaon

informant, it shows that there is no evidence of attempt to commit murder to Sajeda Khatun @ Begum by the accused. Moreover, there is also no evidence on record that after marriage and more particularly in the year 2017 accused, Hasar Ali, has committed mental and physical cruelty upon his wife and that cruelty was of such a nature as was likely to endanger the life or limb of the victim.



13. From the above discussed evidence, it is crystal clear that PW-1- Mokbul Ali, father of the victim, had lodged the FIR due to misunderstanding and after hearing concocted story from his daughter. The real fact was that there was slight quarrel in between accused and his wife (PW-3). In this respect, PW-2, who being the wife of the accused, has stated firmly that there was quarrel in between her and her husband, the accused, due to misunderstanding and she got injury on her body after fallen inside her house as it was dark. Said PW-3 was also corroborated by PW-4 and clarified that on the day of occurrence of the incident the victim (PW-3) narrated concocted story to him and after hearing her he has helped her to go to her parents' house and according to him also there was quarrel in between the accused and his wife (PW-3) due to some misunderstanding and for that her father too had lodged the FIR due to misunderstanding.

14. Thus from the oral testimonies of PW-3 and PW-4 it is crystal clear that PW-1 had lodged the FIR of this case against her own son-in-law, due to misunderstanding. Again according to PW-1 was informed by the relatives of the accused person that accused had assaulted his daughter and she was seriously injured. But during course of cross-examination he admitted that he had not seen the occurrence of the incident and he does not if there was any quarrel before in between the accused and his wife. So, the evidence as stated by PW-1 is hearsay evidence and he has to be corroborated by other

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14.2.19  
Asstt. Sessions Judge,  
Bongaigaon

witness. Again, according to PW-2, she saw Sajeda Begum (PW-3) was injured and lying on the floor of her house. But she had not seen as to how injury was caused on Sajeda and accused not present when she went there. From the evidence of PW-2 also it is not established that accused attempted to commit murder on his wife.



15. In view of the reasons stated above, I am of the considered opinion that the prosecution has miserably failed to prove the charges u/s 307/323/498(A) IPC against the accused Hasar Ali. Accordingly, the accused Hasar Ali is hereby acquitted of Charge u/s 307/323/498(A) IPC. His bail bond shall remain in force for next six months from the date of this order.

Given under my hand and the seal of this court on this the 14<sup>th</sup> day of February, 2019 at Bongaigaon.

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RANJU MEDHI  
ASSISTANT SESSIONS JUDGE,  
BONGAIGAON.  
Asstt. Sessions Judge,  
Bongaigaon

Typed and corrected by: -

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14.2.19

(RanjuMedhi)  
ASSISTANT SESSIONS JUDGE,  
Bongaigaon  
Asstt. Sessions Judge,  
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A P P E N D I XProsecution witness :

- PW 1 - Mokbul Ali.  
PW 2 - Ismottara Bibi.  
PW 3 - Sajeda Begum (victim)  
PW 4 - Mahammod Ali.  
PW 5 - Manju Begum.

Prosecution exhibit

NIL

Defence witness

NIL

Defence exhibit


NIL

Court Witness

NIL

Material exhibit.

NIL

  
14.2.19  
RANJU MEDHI  
ASSISTANT SESSIONS JUDGE,  
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Asstt. Sessions Judge,  
Bongaigaon