

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
AT NORTH LAKHIMPUR**

G.R CASE NO: 1179 OF 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI JOYRAM HERE

DISTRICT: NORTH LAKHIMPUR
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 1179/ 2018

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

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI JOY RAM HERE

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SRI BIMAN BORAH

CHARGE FRAMED ON : 04/12/2019
EVIDENCE RECORDED ON : 05/03/2020

ARGUMENT HEARD ON : 05/03/2020
JUDGMENT DELIVERED ON : 05/03/2020

JUDGMENT

PROSECUTION'S CASE IN BRIEF

1. Prosecution's case in brief as it reveals from the FIR is that informant Smt. Anu Here is the wife of accused Sri Joy Ram Here. After marriage, the accused started to torture the informant mentally and physically. The accused did not provide proper food and clothes to the informant. On 16.05.2018, at about 8 P.M, the accused torture the informant and caused injury. At that time, the informant was pregnant. The accused often tortures the informant physically and tries to kill her. The informant thereafter lodged an FIR about the occurrence before the Officer-in-charge of Bihpuria Police station.

2. On receipt of the F.I.R, the O/C Bihpuria P.S registered a case being numbered as North Lakhimpur P.S Case No. 266/2018. After investigation, I.O of the case submitted charge sheet against accused Sri Joy Ram Herefor the offence punishable under section 498(A) of I.P.C. Copies of relevant documents were furnished to the accused person u/s 207 CrPC. Considering the relevant documents and hearing both the parties, chargeis framed for the offence punishableu/s 498(A) of IPCagainst the accused. The chargeis then read over and explained to the accused person to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined one (01) witness whereas the accused did not examine any witness in support of his defence. The examination of the accused person u/s 313 CrPC was dispensed with finding no incriminating materials against him. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

POINT FOR DETERMINATION:

- (i) Whether the accused married informant Smt. Anu Here and thereafter on various occasions including 16.05.2018, subjected the informant to mental and physical torture and thereby caused grave injury or danger to her life, limb or health, and thereby committed an offence punishable u/s 498(A) of IPC?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

POINT NO.1

5. As regards the aforesaid point for determination, informant Smt. Anu Hereas PW-1 in her evidence-in-chief has stated that she got married to accused Sri Joy Ram Here about 15-20years back. After marriage,they have started to reside as husband and wife in the house of the accused and blessed with three children.In the year 2018, she had an altercation with the accused with respect to family matter for which she had lodged an FIR against the accused. Exhibit-1 is that FIR in which Ext-1(1) is her signature. After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably for which she is not willing to proceed with this case. At present, she is living peacefully with the accused in

her matrimonial house. During her cross-examination, PW-1 has stated that she has no objection if the accused is acquitted from this case.

6. At the time of argument, learned counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused is liable to be acquitted from this case.

7. On going through the evidence deposed by PW-1 as narrated above, it is seen that the informant allegedly got married to accused Sri Joy Ram Here and thereafter in the year 2018 the informant had some dispute with the accused with respect to family matter for which she had lodged this case. There is nothing in the evidence of PW-1 (informant-cum-victim) which can show that the accused subjected the informant to mental and physical torture at any point of time. The PW-1 (informant-cum-victim) has not stated anything about any mental and physical torture upon her by the accused. A simple altercation between both the parties cannot be interpreted to mean that the accused harassed the informant as required u/s 498(A) of IPC. Moreover, the evidence available in the case record nowhere shows that the accused caused any grave injury or danger to the life, limb or health of the informant. As such, it is evident that the witness examined by prosecution has not deposed any incriminating material against the accused and has failed to prove the case of prosecution as alleged in the FIR.

DECISION: Point no.1 is therefore decided in the negative and goes against the prosecution.

ORDER

8. In view of the discussions made above and the decisions reached in the foregoing point for determination, it is held that the witness examined by prosecution has failed to prove that accused Sri Joy Ram Here has committed the offence punishable under section 498(A) of IPC as alleged, and as such, the accused person is acquitted of the charges under section 498(A) of IPC and he be set at liberty forthwith.

The bail bond of the accused person shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 05th day of March, 2020.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

APPENDIX

(A) **PROSECUTION EXHIBITS**

Exhibit.1 – F.I.R

(B) **DEFENCE EXHIBITS**

Nil

(C) **PROSECUTION WITNESSES**

P.W. 1 – Smt. Anu Here

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur