

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
LAKHIMPUR, NORTH LAKHIMPUR, ASSAM**

Present: Shri Akhtabul Ala, AJS,
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam

G.R. 2443/2018

Under section 498(A) of the Indian Penal Code

**State of Assam
-Vs-
Md. Soriful Islam**

.....Accused person

Date of charge framed : 08.08.2019
Date of recording evidence : 06.11.2019 & 06.03.2020
Date of argument : 06.03.2020
Date of judgment : **06.03.2020**

Advocates appeared in the case:-

Mr. Prasanta Dutta, Additional Public Prosecutor, for the State
Smt. Minakshi Das, Learned Defence counsel for accused person.

J U D G M E N T

1. This case has arisen from an ejahar lodged on 24.09.2018 by informant Mustt. Sufia Begum with the then In-Charge of Nowboicha Police Outpost. It is alleged in the ejahar that the accused No-1 Md. Soriful Islam is her husband and accused No-2 Md. Hatem Ali is her father-in-law. It is alleged in the FIR that accused Md. Soriful Islam since 4/5 months back from 24.09.2018, with the intention of marrying another girl, subjected the informant to cruelty by torturing her physically and mentally without providing any maintenance to her and her three children. It is further alleged in the FIR that at about 1:00 PM on 24.09.2018, accused Soriful Islam quarreled with the informant and physically assaulted her and as such she somehow fled away from his house. Hence, the case.

2. The In-charge of Nowboicha Police Outpost, on receipt of the ejahar, effected a G.D. Entry vide Nowboicha O.P. GDE No. 478 dated 25.09.2018 and forwarded the ejahar to the Officer-in-charge of the North Lakhimpur Police Station to register a case under proper section of law. After receiving the ejahar, the then Officer-in-charge of North Lakhimpur Police Station, registered a case vide North Lakhimpur Police Station Case No. 1069/2018 under section 498(A)/34 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 498(A) of the Indian Penal Code against accused person Md. Soriful Islam to stand trial in the Court. The other FIR named accused person Md. Hatem Ali is not sent up for trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 498(A) of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. On receipt of summon, accused person appeared before the Court and necessary copies were furnished to him as per section 207 of the Code of Criminal Procedure. Charge under section 498(A) of the IPC was framed against accused in writing and the same was read over and explained to him to which he pleaded not guilty and claimed to face the trial.

POINTS FOR DETERMINATION :

4. The point which is required to be determined for a just decision of this case is as follows:

Whether the accused person, being the husband of the informant-cum-victim, Mustt. Sufia Begum at village Pandhowa, under North Lakhimpur Police Station, since 4/5 months back from 24.09.2018, subjected her to cruelty by torturing her physically and mentally without providing any maintenance to her and her three children and subsequently at about 1:00 PM on 24.09.2018, he

quarreled with her and physically assaulted her and as such she somehow fled away from his house, and thereby committed an offence punishable u/s 498(A) of the Indian Penal Code?

5. During the trial, the prosecution examined altogether 02 (two) witnesses, namely Mustt. Sofia Begum as PW-1 (informant-cum-victim) and Md. Abdul Goni as PW2. In the instant case, two witnesses including the informant-cum-victim have been examined but they have not stated any incriminating materials against accused person, as such, learned Addl. P.P. prayed for closure of the prosecution evidence. Considering the materials in evidence, the prayer of the prosecution was allowed and the prosecution evidence was closed. The examination under section 313 of the Code of Criminal Procedure of the accused person was dispensed with as no incriminating circumstance appeared against him in the evidence adduced in this case. Defence side declined to adduce DW evidence. Both the sides advanced their respective arguments in this case.

DISCUSSION, DECISION AND REASONS THEREFOR:

6. At the very outset it is essential to have a brief resume of the version of the witnesses in order to marshal the evidence in right perspective in tandem with the points for discussion.

7. PW-1 Mustt. Sufia Begum, informant-cum-victim, who has exhibited Exhibit-1 wherein Exhibit-1(1) has stated that she got married to the accused in the year 2003 as per Islamic rites and rituals and they have three children out of their wedlock. She has stated that a rumor was spread in her village that her husband will marry another girl and in that suspect, she has lodged this case against her husband. But later it was revealed that it was only a rumor was spread in the village against her husband. In her cross-examination, she has stated that she has lodged this case out of misunderstanding. Her husband/

accused does not marry for the second time and as such, she has no objection if the accused is acquitted from this case.

8. PW-2, Md. Abdul Goni has stated that both the accused and informant are husband and wife and they were married about 07-08 years back, having three children out of their wedlock. The informant has suspected the accused Soriful Islam of having some illicit affairs with another women and out of a misunderstanding she filed a case against the accused but later it was revealed that it was only a rumor that was spread in the village of the accused having an extra marital affair with a girl. The inform too on coming to know that it was only a rumor had amicably settled all her disputes with the accused and is presently leading a conjugal life with her. In his cross-examination, she has stated that he has no objection if the accused is acquitted as this case arose only out of a misunderstanding.

9. Thus, it is quite apparent from the evidence on record that PW-1 the informant and victim of this case has not at all implicated the accused and she has not even stated anything about the occurrence as alleged by the prosecution. As per her version, a rumor was spread in her village that her husband will marry another girl and out of that suspicion, she has lodged this case. But later it was revealed that it was only a rumor was spread in the village against her husband. That apart, nothing else had happened. She clarified in her cross-examination that she does not have any objection if the accused is acquitted as this case arose only out of a misunderstanding. Thus, there is not an iota of evidence to suggest that the informant and victim (PW-1) was subjected to cruelty by accused either physically or mentally as alleged.

10. So, in the given position from the evidence on record it can no way be held that the accused since 4/5 months back from 24.09.2018, subjected her the informant and victim (PW1), cruelty by torturing her physically and mentally without providing any maintenance to her and

her three children and subsequently at about 1:00 PM on 24.09.2018, the accused quarreled with her and physically assaulted her and as such she somehow fled away from his house. Hence, the aforesaid point of determination is held in negative.

In the result, the prosecution has failed to prove the charge against the accused under section 498-A of the Indian Penal Code and as such he is acquitted from the said charge and is set at liberty.

Bail bonds are extended to for the further 6(six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 06th day of March, 2020.

(Sri Akhtabul Ala)

Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated and Corrected by me:

(Sri Akhtabul Ala)

Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed and typed by me:

Debashis Bhuyan, Stenographer

Continued (Appendix)

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Mustt. Sufia Begum (PW-1)

Md. Abdul Goni (PW-2)

PROSECUTION EXHIBIT

Ejahaar (Ext-1)

Signature of PW-1 [Ext-1(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

(Sri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur