

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

G.R CASE NO: 3477 OF 2017
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD. BILLAL UDDIN & ANR.

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

GR CASE NO: 3477 OF 2017

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

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. BILLAL UDDIN & ANR.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P
ADVOCATE FOR THE ACCUSED: SMTI M.D.G. BARUAH

CHARGE FRAMED ON : 12/09/2018
EVIDENCE RECORDED ON : 29/06/2019

ARGUMENT HEARD ON : 29/06/2019
JUDGMENT DELIVERED ON : 29/06/2019

JUDGMENT

BRIEF FACTS OF THE CASE:

1. Prosecution's case in brief as it reveals from the F.I.R is that informant Musstt. Nasrin Nabahar Ahmed got married to accused Md. Billal Uddin about 3 ½ years prior to the lodging of the F.I.R. After marriage, the informant resided with said accused as husband and wife and thereafter gave birth to a daughter out of the aforesaid wedlock. Since after the marriage, the said accused and his mother

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Musstt. Koriman Nessa started to torture the informant mentally and physically by demanding money as dowry. The informant thereafter lodged an F.I.R about the occurrence before the in-charge of Bangalmora Police Out post.

2. On receipt of the F.I.R, police registered a case and after investigation submitted charge sheet u/s 498(A) of IPC against accused Md. Billal Uddin and Musstt. Koriman Nessa. Copies of relevant documents were furnished to the accused person u/s 207 CrPC. Considering the relevant documents and hearing both the parties, charge under section 498(A) of I.P.C is framed in writing against both the accused persons. The charges are then read over and explained to the accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined one witness whereas the accused persons did not examine any witness in support of their defence. The examination of the accused persons u/s 313 CrPC was dispensed with finding no incriminating materials against them.

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-

5. **POINTS FOR DETERMINATION:**

(i) Whether the accused Md. Billal Uddin married informant Musstt Nasrin Nabahar Ahmed about 3 ½ years prior to the lodging of this case, and thereafter both the accused persons on various dates, subjected the informant to mental and physical torture with a view to coerce her to meet an unlawful demand of dowry, or thereby caused grave injury or danger to her life, limb or health, and thereby committed an offence under section 498(A) of I.P.C?

DISCUSSION OF EVIDENCE, REASONS AND DECISION THEREOF:-

6. As regards the aforesaid point for determination, PW1 Musstt. Nasrin Nabahar Ahmed in her evidence in chief has stated that she is the informant. Accused Md. Billal Uddin is her husband and the co-accused is her mother in law. About five years back, she got married to accused Md. Billal Uddin and thereafter she resided with said accused in his house as husband and wife. About one and half year back, she had some dispute with the accused persons with respect to family matter as a

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result of which she had to come back to her mother's house. Thereafter she lodged an F.I.R against the accused. Exhibit-1 is that F.I.R in which exhibit-1(1) is her signature. After lodging of that F.I.R, the aforesaid dispute between herself and her husband got settled amicably. Thereafter she went back to her husband's house. At present she is residing with the accused Md. Billal Uddin as husband and wife. She is now not willing to proceed with this case any further. During her cross-examination, PW1 has stated that she filed this case out of misunderstanding and at present she is having good relation with her husband.

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

8. On going through the evidence deposed by PW1, it is found that the informant got married to the accused Md. Billal Uddin and after marriage they stayed together as husband and wife. However, thereafter they had some dispute with respect to family matters for which the informant filed this case. The dispute then got settled amicably and both are now residing together. There is nothing in the evidence of PW1 to show that the accused persons demanded dowry and thereby tortured the informant and caused injury. A simple dispute between the parties cannot be understood to constitute the offence under section 498(A) of I.P.C. As such, from the foregoing discussion it is clear that the PW1 examined by the prosecution deposed nothing incriminating against the accused persons and failed to prove the case of the prosecution against the accused persons as alleged. There is no evidence of the commission of offences u/s 498(A) of I.P.C by the accused persons as alleged.

DECISION: This point is therefore decided in the negative and goes against the prosecution.

ORDER

9. 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 Md. Billal Uddin and Musstt. Koriman Nessa have committed the offence punishable under section 498(A) of IPC as alleged, and as such, the accused persons are acquitted of the charge under section 498(A) of IPC and they be set at liberty forthwith.

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The bail bond of both the accused persons 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 29th day of June, 2019.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

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APPENDIX

(A) PROSECUTION EXHIBITS

Exhibit.1 – F.I.R

(B) DEFENCE EXHIBITS

Nil

(C) PROSECUTION WITNESSES

P.W. 1 – Musstt. Nasrin Nabahar Ahmed

(D) DEFENCE WITNESSES

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

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