

IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE

AT NORTH LAKHIMPUR

G.R CASE NO: 1516 OF 2017
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI BHAITI BARUAH @ MANJIT BARUAH

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

GR CASE NO: 1793 OF 2017

U/S 498(A) OF I.P.C R/W SECTION 4 D.P ACT

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI BHAITI BARUAH @ MANJIT BARUAH

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P
ADVOCATE FOR THE ACCUSED: SRI D. CHUTIA

CHARGE FRAMED ON : 05/12/2018
EVIDENCE RECORDED ON : 29/05/2019

ARGUMENT HEARD ON : 29/05/2019
JUDGMENT DELIVERED ON : 07/06/2019

JUDGMENT

BRIEF FACTS OF THE CASE:

1. Prosecution's case in brief as it reveals from the F.I.R is that informant Smti Pori Baruah got married to accused Sri Bhaiti Baruah on 09/02/2015. Thereafter, the informant resided with the accused as husband and wife as a result of which she gave birth to a son out of the aforesaid wedlock. After a few days of marriage, the accused started to torture the informant mentally and physically by demanding

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dowry. On 25/05/2017, the accused tortured the informant physically and then ousted her from his house. The accused also threatened to kill the informant if she returns to his house without the dowry demanded by him. The informant being helpless took shelter in her parent's house alongwith her son. The informant then lodged an F.I.R about the occurrence before the O/C of North Lakhimpur P.S.

2. On receipt of the F.I.R, police registered a case and after investigation submitted charge sheet u/s 498(A) of IPC R/W Section 4 of Dowry Prohibition Act against accused Sri Bhaiti Baruah @ Manjit Baruah. 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 r/w Section 4 of Dowry Prohibition Act are framed in writing against the accused person. The charges are 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 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-

5. **POINTS FOR DETERMINATION:**

(i) Whether the accused person married informant Smti Pori Baruah on 09/02/2015 and thereafter on various dates including 25/05/2017, 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?

(ii) Whether the accused person married informant Smti Pori Baruah on 09/02/2015 and thereafter on various dates including 25/05/2017, demanded dowry from the parents of informant, directly or indirectly, and thereby committed an offence punishable under section 4 of Dowry Prohibition Act?

DISCUSSION OF EVIDENCE, REASONS AND DECISION THEREOF:-

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6. For the sake of convenience, and as because point no.1 & 2 are inter-connected in law and fact, they are taken up herein together for discussion & decision. As regards the aforesaid points for determination, PW1 Smti Pori Baruah in her evidence in chief has stated that she is the informant and the accused is her husband. About four years back, she got married to the accused and thereafter she resided with the accused in his house as husband and wife. They have got one son out of the said wedlock. In the years 2017, she had some dispute with her husband with respect to family matter as a result of which she had to come back to her father'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 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 has no objection if the accused is acquitted.

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 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 person demanded dowry and thereby tortured the informant and caused injury. Also, there is no iota of evidence to show that the accused directly or indirectly demanded dowry from the parents of informant. A simple dispute between the parties cannot be understood as a demand of dowry or torture as alleged. As such, from the foregoing discussion, it is clear that the PW1 examined by the prosecution deposed nothing incriminating against the accused person and failed to prove the case of the prosecution against the accused person as alleged. There is no evidence of the commission of offences u/s 498(A) of I.P.C r/w Section 4 of Dowry Prohibition Act by the accused person as alleged.

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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 Sri Bhaiti Baruah @ Manjit Baruah has committed the offences under section 498(A) of IPC r/w Section 4 of Dowry Prohibition Act as alleged, and as such, the accused person is acquitted of the charges under section 498(A) of IPC r/w Section 4 of Dowry Prohibition Act 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 07th 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 – Smti Pori Baruah

(D) DEFENCE WITNESSES

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

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