

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

Present: Shri Narayan Kuri, AJS,
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam

G.R. 2317/2014

U/s 498A IPC R/W Section 4 of Dowry (Prohibition) Act

State of Assam

-Vs-

Md. Nurul Amin

S/O: Late Usuf Ali

R/O: Balitika

P/S: Laluk

District: Lakhimpur, Assam

.....Accused person

Date of framing charge : 09.01.2019
Date of recording evidence : 19.03.2019
Date of argument : 26.04.2019
Date of judgment : **26.04.2019**

Advocates appeared in the case:-

Mr. Prasanta Dutta, Addl. P.P., for the State

Mr. Dipak Mahanta, Advocate, for the accused person

J U D G M E N T

1. This case has arisen from an ejahar lodged by one Musstt. Mamuda Begum on 17.11.2014 before the In-charge of Lilabari Police Outpost under North Lakhimpur Police Station. It is alleged in the ejahar that accused Md. Nurul Amin, who is the husband of informant, since after her marriage and subsequently on 27.10.2014 subjected her to cruelty by torturing her physically and mentally on demand of property and cash amount as dowry. Hence, the case.

2. The In-charge of Lilabari Police Outpost, on receipt of the ejahar, effected a G.D. Entry vide Lilabari O.P. G.D. Entry No. 259 dated 17.11.2014 and

forwarded the ejahar to the Officer-in-charge, North Lakhimpur Police Station to register a case under proper section of law. After receiving the ejahar, the Officer-in-charge, North Lakhimpur Police Station, registered a case being North Lakhimpur Police Station Case No. 1260/2014 u/s 498A/34, IPC R/W Section 4 of the Dowry (Prohibition) Act and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet u/s 498A, IPC R/W Section 4 of the Dowry (Prohibition) Act against the accused person Md. Nurul Amin to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offences u/s 498A, IPC R/W Section 4 of the Dowry (Prohibition) Act were taken as per section 190(1)(b), Cr.P.C. Necessary copies were furnished to the accused person as per section 207, Cr.P.C. after his appearance before the Court. After considering the materials on record and hearing both the sides, charges u/s 498A, IPC R/W Section 4 of the Dowry (Prohibition) Act were framed in writing against the accused person. The charges were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined only three witnesses namely Musstt. Mamuda Begum (PW-1) (informant-cum-victim), Musstt. Jamina Khatun (PW-2) and Md. Marfat Ali (PW-3). In the instant case the informant-cum-victim and other witnesses have been examined but they have not stated any incriminating materials against the 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 u/s 313, Cr.P.C. of the accused person was dispensed with as no incriminating circumstance appeared against him in the evidence adduced in this case. Both the sides advanced their respective arguments in this case.

Points for determination

5. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused person being the husband of informant-cum-victim Musstt. Mamuda Begum, since after the marriage with him and subsequently on 27.10.2014, at village Balitika under North Lakhimpur Police Station, subjected her to cruelty by torturing her physically and mentally on demand of property and cash amount as dowry, and thereby committed an offence punishable u/s 498A, IPC ?

(b) Whether the accused person since after the marriage of informant-cum-victim Musstt. Mamuda Begum with him, at village Balitika under North Lakhimpur Police Station, demanded property and cash amount from her as dowry, and thereby committed an offence punishable under section 4 of the Dowry (Prohibition) Act ?

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 Musstt. Mamuda Begum, informant-cum-victim, has stated that accused Nurul Amin is her husband. She was married with the accused in the month of November 2013 as per the customs of Islamic religion and they lived together for a year and out of their wedlock a male child was born to them. Thereafter, quarrel used to take place between her and her husband arising out of some domestic matter and out of anger she left her matrimonial house and lodged an ejahar (Ext-1). After 2/3 months of the filing of the ejahar her husband, the accused came to her mother's house and brought her to his house and since then she has been living in the house of her husband peacefully. In her cross-examination, PW-1 has stated that she cannot say what is written in the ejahar as the same was not written by her. The case was lodged by her out of misunderstanding and as such she does not have any objection if the accused is acquitted from this case.

8. PW-2 Musstt. Jamina Khatun, mother of the informant-cum-victim, has stated that her daughter, the informant was married with the accused about ¾

years ago and they have a male child. Thereafter, an altercation took place between the informant and the accused due to some misunderstanding and for this reason the informant left her matrimonial house and came to their house. In her cross-examination, PW-2 has stated that her daughter, the informant lodged the case against the accused out of misunderstanding. The accused neither assaulted the informant nor demanded any money from her. She does not have any objection if the accused is acquitted from this case.

9. PW-3 Md. Marfat Ali, father of the informant-cum-victim, has deposed that about 4/5 years ago the informant was married with the accused and they have a male child. Thereafter, an altercation took place between her daughter and the accused on some domestic matter and her daughter left her matrimonial house and lodged an ejahar against the accused and came to their house. In his cross-examination, PW-3 has stated that the case was lodged by the informant due to some misunderstanding. The accused neither demanded any dowry from the informant nor assaulted her and as such he does not have any objection if the accused is acquitted from this case.

10. Thus, it is quite apparent from the evidence on record that PW-1 (informant-cum-victim) has not at all implicated the accused person and she has not even stated anything about the occurrence as alleged by the prosecution. As per her version, the only reason why she had left the house of the accused was that the latter quarreled with her due to some domestic affairs and out of anger she left the house of her husband and went to her father's house and lodged the ejahar. Thereafter, after 2/3 months her husband went to her house and brought to his house and since then she has been living peacefully with the accused. She has not deposed anything to the effect that she was subjected to cruelty on demand of money and property. Coming to the other witnesses (i.e. the mother and father of the informant-cum-victim) examined by the prosecution in this case, it appears that they have also not deposed anything about the alleged occurrence. Rather, they have stated that an altercation took place between the informant and the accused due to some domestic matter and out of misunderstanding the informant left her matrimonial house and lodged an ejahar

against the accused. Thus, there is not an iota of evidence to suggest that victim was harassed for dowry or for any demand for property or the accused person had caused any grave injury to her. In their cross-examination, the PWs have stated that the case was lodged out of misunderstanding between the informant and the accused and they do not have any grievance against the accused person and as such they do not have any objection if the accused person is released from this case.

11. In view of the above discussion, I have no hesitation in holding that the prosecution has miserably failed to bring home the charge u/s 498A, IPC R/W Section 4 of the Dowry (Prohibition) Act against the accused person. As such, the points for determination are decided against the prosecution and the accused person Md. Nurul Amin is acquitted of the said charges. Consequently, the accused person is set at liberty forthwith. The bail-bond of the accused person stands cancelled and surety stands discharged.

12. Given under my hand and the seal of this Court on this the 26th day of April, 2019.

(Shri Narayan Kuri)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated and Corrected by me:

(Shri Narayan Kuri)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Contd. (Appendix)

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Musstt. Mamuda Begum (PW-1)

Musstt. Jamina Khatun (PW-2)

Md. Marfat Ali (PW-3)

PROSECUTION EXHIBIT

Ejahaar (Ext-1)

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

(Shri Narayan Kuri)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed and typed by me:
Narayan Chetri, Stenographer