

GR CASE NO: 2145 of 2017

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,  
LAKHIMPUR, NORTH LAKHIMPUR**

**GR CASE NO: 2145 of 2017**

**Under section 498(A) IPC.**

**State**

**-Versus-**

**Md. Emran Hussain                   .....Accused Person**

**PRESENT : Sri Jayanta Kumar Saikia, AJS  
                  Judicial Magistrate, First Class  
                  Lakhimpur, North Lakhimpur.**

**ADVOCATES APPEARED-**

**FOR THE PROSECUTION : Sri Debajit Dutta Borah**

**FOR THE ACCUSED                : Smt. M.D Gohain Baruah**

**CHARGE FRAMED ON:                10-10-2018**

**EVIDENCE RECORDED ON:        05-04-2019**

**ARGUMENT HEARD ON        :        05-04-2019**

**JUDGMENT DELIVERED ON: 09-04-2019.**

**JUDGMENT**

- 1.** The prosecution case sets into motion by filing a FIR by the informant, Mustt. Taslima Begum alleging that the accused person,

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named in the FIR, namely, Md. Emran Hussain is her husband and after her marriage, her husband subjected her to physical and mental torture by demanding dowry and money in the form of cash of Rs.50,000/-. It is further alleged that on 20.07.2017, the accused person physically assaulted the informant and drove her out of her residence. Hence, she has lodged this case.

2. The Officer-in-charge, Laluk Police station, on receipt of the Ejahar registered Laluk P.S. Case No. 224/2017, under section 498(A)/34 of IPC and endorsed the concerned IO for investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused person, Md. Emran Hussain under Section of 498(A) IPC.
3. In due course, the accused person appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused person, the charge is framed, under Section 498(A) of IPC against the accused person, which is read over and explained to him vide order dated 10.10.2018, to which he pleaded not guilty and claimed to be tried.
4. The prosecution, in support of its case, examined only two (02) witnesses. The Learned Assistant Public Prosecutor prayed to close the PW evidence as the principal witness, who is the victim and informant of the case does not support the prosecution case.
5. The statement of the accused person under section 313 of CrPC is dispensed with as there are no incriminating materials found against the accused person. Defence side examined no witnesses.
6. I have heard the arguments advanced by the learned counsels for both sides.
7. **POINTS FOR DETERMINATION:-**

- (i) Whether on various dates after your marriage and on 20.07.2017 at Kehutoli under the jurisdiction of Laluk Police

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station, the accused person, being the husband of the victim/informant, Mustt. Tashlima Begum, subjected her to physical and mental torture by demanding dowry and money in the form of cash of Rs.50,000/- (fifty thousand) and thereby committed an offence punishable under Section-498(A) of IPC?

**DISCUSSION, DECISION AND REASONS THEREOF:**

- 8.** In the instant case, the prosecution side adduced the evidence of PW-1/informant-victim only but she does not support the prosecution story.
- 9.** The evidence of **PW1**, Mustt. Tashlima Begum, who is the informant and the victim of this case, reveals that she has lodged this case against her first husband Md Emran Hussain. She deposed in her examination-in-chief that she was married to him a few years back and thereafter she lived with him for one year. But due to some adjustment issues, she returned to her parental house and due to misunderstanding, she lodged this case. They amicably settled their dispute and they got separated. She again married to one Md. Hashibul Rahman and begotten one child out of that wedlock. She further deposed that she is living peacefully with her second husband and she does not want to proceed with this case. In her cross-examination, PW1 deposed that she has no objection if the accused get acquittal in this case. She deposed that the marriage between her and the accused in this case did not survive as they were not good match and there is no fault in anyone's part for dissolution of that marriage.
- 10.** The evidence of **PW2**, namely, Md. Muhammad Ali, who is the grandfather of the informant and victim of the case, reveals that his granddaughter lodged this case against her first husband Md Emran Hussain. He deposed in his examination-in-chief that his

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granddaughter was married to the accused person a few years back and thereafter she lived with him for one year. But due to some adjustment issues, his granddaughter returned to her parental house and due to misunderstanding, his granddaughter lodged this case. They amicably settled their dispute and his granddaughter got separated. He deposed that his granddaughter again married to one Md Hashibul Rahman and begotten one child out of that wedlock. He further deposed that his granddaughter is living peacefully with her second husband and she does not want to proceed with this case. In his cross-examination, PW1 deposed that he has no objection if the accused get acquittal in this case. He deposed that the marriage between his granddaughter and the accused in this case did not survive as they were not good match and there is no fault in anyone's part for dissolution of that marriage.

- 11.** The Learned Asstt. Public Prosecutor prayed to close the PW evidence stating that the principal witness, who is the informant and the victim of the case has not supported the prosecution case. The victim/informant (PW1) and PW2, who is the grandfather of the informant, deposed in their testimonies that they have no objection, if the accused person gets acquittal in this case as the case was lodged due to misunderstanding. It is also reveals from the testimonies of both the PWs that they do not want to proceed with the case by adducing evidence as they have amicably settled their dispute. It is seen from the testimony of the informant (PW1) that the marriage between her and the accused in this case did not survive as they were not good match and there is no fault in anyone's part for dissolution of that marriage and so at present, she is not willing to proceed with the case by adducing evidence against her ex-husband. There is nothing in the evidence incriminating the accused person that he has committed an offence under section-498(A) of IPC.

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- 12.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused person under offence under section 498(A) of IPC as the informant and victim of the case did not support the prosecution story.

**ORDER**

In the light of aforesaid discussions and reasons, it is seen that the prosecution side failed to prove the guilt of the accused person. Accordingly, the accused person, Md. Emran Hussain is acquitted from the offence under Section 498(A) of IPC and he is set at liberty forthwith.

The bail bonds of the accused person and his surety shall remain in force for a period of 6 months from today as per amended CrPC.

**Given under my hand and seal of this court on this 09<sup>th</sup> day of April, 2019.**

Sri Jayanta Kumar Saikia  
Judicial Magistrate, First Class,  
Lakhimpur, North Lakhimpur

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**APPENDIX**

***PROSECUTION EXHIBITS:***

NIL

***DEFENCE EXHIBITS***

NIL

***PROSECUTION WITNESSES***

PW-1: Mustt. Tashlima Begum (informant-victim).

PW-2: Md. Muhammad Ali.

***DEFENCE WITNESSES***

NONE

***MATERIAL EXHIBITS***

NIL

Sri Jayanta Kumar Saikia  
Judicial Magistrate, First Class,  
Lakhimpur, North Lakhimpur.