

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

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

**G.R. 1583/2017**

Under section 498-A of the Indian Penal Code

**State of Assam**

**-Vs-**

**Md. Abdus Kalam @ Afruz Kalam**

..... Accused

Date of framing charge : 05.09.2018  
Dates of recording evidence : 30.05.2019, 03.07.2019,  
29.08.2019, 10.01.2020  
Date of examination u/s 313, Cr.P.C. : 12.01.2021  
Date of argument : 12.01.2021  
Date of judgment : **12.01.2021**

**Advocates appeared in the case:-**

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

Smti. Minakhi Dutta Gohain Baruah, Advocate, for the accused

**J U D G M E N T**

1. The brief matrix of the prosecution case is that one Musstt. Nuresa Begum on 05.06.2017 had lodged a complaint before the Executive Magistrate, Lakhimpur, North Lakhimpur alleging inter alia that her husband Md. Abdus Kalam along with his mother used to commit physical and mental atrocities on her demanding dowry. Moreover, when she was pregnant the accused persons had

assaulted her for which the child that was in her womb died. Hence, the case.

2. The said complaint was forwarded to the Officer-in-charge of North Lakhimpur Police Station who on receiving the said complaint had registered a case vide NLPS Case No. 687/2017 under section 498-A/313/34 of the Indian Penal Code 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 under section 498-A of the Indian Penal Code only against the accused Md. Abdus Kalam to stand 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. Necessary copies were furnished to the accused as per section 207 of the Code of Criminal Procedure after his appearance before the Court. After considering the materials on record and hearing both the sides, charge under section 498-A of the Indian Penal Code was framed in writing against the accused. The charge was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined 4 (four) witnesses viz. Musstt. Kulsum Bibi as PW-1, Md. Habizur Rahman as PW-2, Smti. Joyamoni Baruah as PW-3 and Musstt. Nuresa Begum as PW-4. The prosecution had exhibited the complaint petition as Ext-1 and the signatures of the informant (PW-4) therein as Ext-1(1) and Ext-1(2). After the closure of the prosecution evidence, the accused was examined under section 313 of the Code of Criminal Procedure wherein he declined to adduce evidence in defence.

5. Both the sides advanced their respective arguments in this case.

**POINT FOR DETERMINATION:**

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

(a) Whether the accused being the husband of informant-cum-victim Musstt. Nuresa Begum had subjected her to cruelty by committing physical and mental tortures on her to coerce her to meet his demand of dowry ?

**DISCUSSION, DECISION AND REASONS THEREOF:**

7. Now to determine the aforesaid point of determination let us have a scrutiny of the evidence on record.

8. PW-1 Musstt. Kulsum Bibi in her evidence stated that both the informant and the accused are husband and wife and that a still-born child was born to the informant one day and at that time the accused was not in his home since he was a driver and as such was away from home in concern with his livelihood. PW-1 further stated that though the informant alleged that her mother-in-law had killed the baby but the said baby was born in a sub-center and she also used to work as an Asha Karmi there but she never saw the mother-in-law of the informant doing any such activity and the said child was in fact born dead. PW-1 further stated that while the informant was pregnant she was properly given the required food by the accused.

9. So from the evidence of the PW-1 it can be seen that she didn't state anything about the accused committing any atrocities on the

informant and only stated about the dead child being born to the informant.

10. Now the PW-2 Md. Habizur Rahman stated that he knows both the informant and the accused to be husband and wife and that a still-born child was born to the informant and later the informant had left the house of the accused and went to her father's house. He does not know the reason for which the informant left the house of the accused.

11. PW-3 Smti. Joyamoni Baruah stated in her evidence that the informant and the accused are husband and wife who got married in the year 2016 as per social rites and out of their conjugal life a female baby was born to them but it was a still-born baby and after the delivery of the said still-born child the informant went to her parents' house leaving the house of the accused.

12. Now the PW-4 Musstt. Nuresa Begum, the informant-cum-victim of this case, testified that the accused is her former husband and while she was leading a conjugal life with him they had differences between them over a family matter for which she left the house of the accused and went to her father's house. Now both she and her accused-husband have got divorced.

13. So from the evidence on record it can be seen that in fact none of the PWs have stated anything about the accused committing any sort of atrocities on the informant or demanding dowry from her. PW-4 i.e. the informant and the victim herself didn't state anything about the accused committing any sort of atrocities on her. Nor she stated anything about the accused demanding any dowry from her but she merely stated that she had differences with the accused over family matter for which she left his house.

14. So none of the PWs have stated anything incriminating against the accused and as such no offence is made out against him.

15. Consequently, the aforesaid point of determination is held in negative.

16. The prosecution has failed to prove the case against the accused under section 498-A of the Indian Penal Code and as such he is acquitted from the said offence 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 12<sup>th</sup> day of January, 2021.

**(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:  
Narayan Chetri, Stenographer

Continued ..... (Appendix)

**A P P E N D I X**

**WITNESSES FROM THE PROSECUTION SIDE**

Musstt. Kulsum Bibi (PW-1)

Md. Habizur Rahman (PW-2)

Smti. Joyamoni Baruah (PW-3)

Musstt. Nuresa Begum (PW-4)

**PROSECUTION EXHIBIT**

Complaint petition (Ext-1)

Signatures of the informant [Ext-1(1), Ext-1(2)]

**WITNESSES AND EXHIBITS FROM THE DEFENCE SIDE**

Nil

**WITNESSES AND EXHIBITS FROM THE COURT SIDE**

Nil

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