

**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. 665/2019

Under section 498-A of the Indian Penal Code

State of Assam

-Vs-

Sri Bihm Bahadur Sonar @ Bhim Bahadur Biswakarma

..... Accused

Date of framing charge : 25.02.2020
Date of recording evidence : 07.01.2021
Date of examination u/s 313, Cr.P.C. : 07.01.2021
Date of argument : 07.01.2021
Date of judgment : **07.01.2021**

Advocates appeared in the case:-

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

Mrs. Chitrlekha Chutia, Advocate, for the accused

J U D G M E N T

1. The brief history of the prosecution case is that one Smti. Radha Biswakarma had lodged an ejahar before the Officer-in-charge of North Lakhimpur Police Station on 22.03.2019 alleging inter alia that her husband Sri Bhim Bahadur Sonar with whom she was married about 9 (nine) years back and had 2 (two) sons out of this wedlock, have been committing cruelty upon her by subjecting her to physical and mental torture in order to coerce her to meet his demand of dowry. The accused even getting inebriated assaulted her physically making her life miserable. Hence, the case.

2. The Officer-in-charge of Bihpuria Police Station on receiving the ejahar had registered a case vide Bihpuria P.S. Case No. 253/2019 under section 498-A 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 Sri Bhim Bahadur Sonar @ Bhim Bahadur Biswakarma 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.

POINT FOR DETERMINATION:

4. 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 the informant had subjected her to cruelty to coerce her to meet his demand of dowry ?

5. During the trial, the prosecution examined only one witness viz. Smti. Radha Biswakarma as PW-1. The prosecution had exhibited the ejahar as Ext-1 and the signature of the informant therein as Ext-1(1).

6. After the closure of the prosecution evidence, the statement under section 313 of the Code of Criminal Procedure was recorded. The defence plea is of total denial and the defence side declined to adduce evidence in defence.

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

DISCUSSION, DECISION AND REASONS THEREOF:

8. To decide the aforesaid point of determination let us have a look at the evidence of PW-1.

9. Now PW-1 Smti. Radha Biswakarma in her evidence testified that she was married to the accused in the year 2010 as per Hindu rites and out of this wedlock she has 2 (two) sons who are presently 10 years and 7 years respectively. She further stated that about 1½ years back she had a quarrel and verbal altercation with the accused over family matters for which she left his house along with her children to her parents' house and later she out of a misunderstanding had lodged an ejahar against the accused.

10. PW-1 further stated in her cross-examination that the accused never demanded any dowry from her nor had physically assaulted her and this case in fact arose only out of a misunderstanding.

11. So from the evidence of PW-1 it transpires that all that had happened was nothing but a mere verbal altercation and quarrel between a husband and a wife and no such incident as that of the accused demanding dowry from the informant and subjecting her to cruelty had taken place.

12. So no offence is made out against the accused and consequently the aforesaid point of determination is held in negative.

13. 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 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 7th 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

Smti. Radha Biswakarma (PW-1)

PROSECUTION EXHIBIT

Ejhar (Ext-1)

Signature of the informant [Ext-1(1)]

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