

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
AT NORTH LAKHIMPUR**

G.R CASE NO: 2071 OF 2017
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI BIDHAN RAY

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

GR CASE NO: 2071 / 2017

U/S 498(A) OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI BIDHAN RAY

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P
ADVOCATE FOR THE ACCUSED: MR. PANKAJ SAIKIA

CHARGE FRAMED ON : 27/02/2020
EVIDENCE RECORDED ON : 06/04/2021

ARGUMENT HEARD ON : 06/04/2021
JUDGMENT DELIVERED ON : 06/04/2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF

1. Prosecution's case in brief as it reveals from the FIR is that informant Smt. Kabita Deori Ray got married to accused Sri Bidhan Ray about 06 years prior to the lodging of this case. After marriage, the accused started to demand dowry from the informant and torture her mentally and physically. The accused also threatened to marry another woman and assaulted the informant in that connection. On 14.07.2017 at about 07:00 P.M in the night, the accused threatened to kill the informant and then strangulated her neck and also caused injury by biting her. As a result of the aforesaid torture, the informant on

16/07/2017 at about 09:00 A.M, came to her father's house along with her son. The informant thereafter lodged an FIR about the occurrence before the Officer in-charge of Bihpuria police out station.

2. On receipt of the F.I.R, police registered a case being numbered as Bihpuria P.S Case No. 611/17. After investigation, I.O of the case submitted charge sheet against accused Sri Bidhan Ray for the offence punishable under section 498(A) of I.P.C. Copies of relevant documents were furnished to the accused person u/s 207 CrPC. Considering the relevant documents and hearing both the parties, charge was framed for the offence punishable u/s 498(A) of IPC against the accused. The charge was 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-

POINT FOR DETERMINATION:

- (i) Whether the accused married informant Smt. Kabita Deori Ray and thereafter on several dates including 14/07/2017 subjected the informant to torture, both mentally and physically, with a view to coerce her to meet an unlawful demand of dowry; or thereby caused grave injury or danger to her life, limb and health, and thereby committed an offence punishable u/s 498(A) of IPC?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

POINT NO.1:

5. As regards the aforesaid point for determination, informant Smt. Kabita Deori Rayas PW-1 in her evidence-in-chief has stated that she got married to accused Sri Bidhan Ray about 10 years back. After marriage she started to reside with the accused in his house as husband. About four years back, she had an altercation with the accused with respect to family matter due to which she lodged an FIR against the accused. Exhibit-1 is that FIR in which Exhibit-1(1) is her signature.

After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably and at present she is residing with the accused for which she is not willing to proceed with this case. During her cross-examination, PW-1 has stated that she has no objection if the accused is acquitted from this case.

6. At the time of argument, learned counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused is liable to be acquitted from this case.

7. On going through the evidence deposed by PW-1 as narrated above, it is seen that the informant allegedly got married to the accused, and about four years back the informant had some dispute with the accused with respect to family matter for which she lodged this case. There is nothing in the evidence of PW-1 which can show that the accused ever demanded any dowry or harassed the informant in connection with that demand. The PW-1 has not stated anything about any demand of dowry by the accused, or any harassment by the accused as alleged in the FIR. A simple altercation between both the parties cannot be interpreted to mean that the accused harassed the informant as required u/s 498(A) of IPC. Moreover, the evidence available in the case record nowhere shows that the accused caused any grave injury or danger to the life, limb or health of the informant. As such, it is evident that the witness examined by prosecution has not deposed any incriminating material against the accused and has failed to prove the case of prosecution as alleged in the FIR.

DECISION: Point no.1 is therefore decided in the negative and goes against the prosecution.

ORDER

8. 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 Bidhan Ray has committed the offence punishable under section 498(A) of IPC as alleged, and as such, the accused person is acquitted of the charges under section 498(A) of IPC 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 06th day of April, 2021.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

APPENDIX

(A) **PROSECUTION EXHIBITS**

Exhibit.1 – F.I.R

(B) **DEFENCE EXHIBITS**

Nil

(C) **PROSECUTION WITNESSES**

P.W. 1 – Smt. Kabita Deori Ray.

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur