

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

G.R CASE NO: 2132 OF 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD. ANARUL HAQUE

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

GR CASE NO: 2132 / 2018

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

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. ANARUL HAQUE

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: MR. S. KHANDAKAR

CHARGE FRAMED ON : 08.11.2019
EVIDENCE RECORDED ON : 13.02.2020, 20.03.2021

ARGUMENT HEARD ON : 20.03.2021
JUDGMENT DELIVERED ON : 31.03.2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the FIR is that informant Must. Ramjina Hazarika got married to accused Md. Anarul Haque. After marriage, the accused started to torture the informant by demanding money. The accused also threatened to kill the informant if she fails to bring dowry as demanded. The accused also threatened that he will marry another woman if the informant fails to get a government job for herself. The informant thereafter

lodged an FIR about the occurrence before the O/C of North Lakhimpur police station.

2. On receipt of the F.I.R, a case was registered being numbered as North Lakhimpur P.S Case No. 943/2018. After investigation, I.O of the case submitted charge sheet against accused Md. Anarul Haque for the offence punishable u/s 498(A) of IPC. Copies of relevant documents were furnished to the accused u/s 207 CrPC. Considering the relevant documents and hearing both the parties, charge was framed against the said accused for the offence punishable under section 498(A) of IPC. The charge was then read over and explained to the accused 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 defence did not examined any witness. The accused was examined u/s 313 of CrPC. Defence case is of total denial as it reveals from the statements made by accused and the tenor of cross-examination of prosecution witnesses by defence. 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-

5. **POINTS FOR DETERMINATION:**

(i) Whether the accused married informant Musst. Ramjina Hazarika and thereafter on various dates, subjected the informant to torture, both mental and physical, with a view to coerce her to meet an unlawful demand of dowry, and thereby committed an offence punishable u/s 498(A) of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

POINT NO. 1:

6. As regards the aforesaid point for determination, informant Musst. Ramjina Hazarika as PW-1 in her evidence-in-chief has stated that on 16.04.2017 she got married to the accused and thereafter started to reside with the accused in his house as husband and wife. After a few days of marriage, the accused started to pressurize the informant by saying that she should get a job for herself or else he will marry another woman. The accused also started to demand money from her and asked her to bring the same from her mother's house, but, she could not fulfil the demand of accused as her mother's financial condition is not

good and for that reason the accused tortured her. The accused also kept illegal relationship with other woman and often had conversation over phone which she/PW-1 herself saw and she also had an altercation with the accused for that matter. As a result of the aforesaid torture, she had to leave the house of accused and took shelter in her mother's house on 05.08.2018.

7. Now, perusal of the above evidence shows that there are three main allegations made by the informant/PW-1 against the accused. To be more specific, the first allegation is that the accused pressurized the informant to get a job for herself, or else he will marry another woman. The second allegation is that the accused asked the informant to bring money from her mother's house and on failure of informant to meet the demand the accused tortured her. The third allegation is that the accused kept illegal relationship with another woman and the informant herself saw the accused having conversation over phone with other women.

8. In my opinion, the first and third allegations as mentioned above do not attract the ingredients of the offence punishable u/s 498(A) of IPC. To be more specific, the first and third allegations as stated above, in no way shows that the accused had demanded any dowry or harassed the informant in connection with such demand. The said two allegations also do not satisfactorily show that the accused had caused any grave injury or danger to the life, limb or health of informant. Under such circumstances, it is clear that the aforesaid allegation do not attract the ingredients of offence punishable u/s 498(A) of IPC.

9. As regards the credibility of the second allegation, i.e. the demand of dowry by accused, upon perusal of cross-examination, it is seen that the informant had love affair with the accused since 3 – 4 years prior to her marriage and both of them were well aware of the condition of each other's house, including the financial condition. Be it noted here that as per PW1/informant, her mother's financial condition was not good. Under such circumstances, it can be presumed that the accused had the knowledge that informant's mother will not be able to fulfil any demand of money. In that view of the matter, and having regard to the common course of human conduct, I find it difficult to believe that the accused in-spite of knowing informant's mother's financial, will suddenly start to demand dowry just after few days of marriage. If the accused had actually

demanded money as alleged, then there must be some reason, or else it is very much improbable that the accused will demand money just after his in spite of knowing informant's mother's financial condition.

10. Besides the above, the informant/PW-1 has nowhere specifically stated the amount of money demanded, or the exact date/time of such demand. The allegation of demand of money made by PW-1 is very vague. Had the accused actually demanded money as alleged then, in my opinion, the PW1/informant in her evidence would have been able to mention at least the amount of money demanded by accused. Therefore, omission of PW1/informant to mention the amount of money demanded, and also the date of such alleged demand, creates doubt as regards the credibility of her aforesaid allegations.

11. Moreover, the PW1/informant in her evidence has simply stated that the accused **tortured** her as she failed to meet his demand to pay money. The PW1 has not specifically stated that what how the accused allegedly committed **torture** upon her. Needless, to mention here that it is for the court to decide that whether the alleged acts committed by accused amounts to torture or not as required under section 498(A) of IPC. As such, it is essential that the witness must describe the acts committed by accused. Therefore, in the absence of such specific description of the acts allegedly committed by the accused, it cannot be said with absolute certainty that the accused actually committed torture upon the accused.

12. Moreover, it is specifically admitted by the informant/PW-1 that she lodged Exhibit-1 FIR after about 19 days from the date of her return from the house of accused. Also, she has not mentioned in the FIR that why such delay took place in lodging of the Exhibit-1/ FIR. In my opinion, having regard to the discussion made above, such unexplained delay creates doubt as regards the credibility of the allegations made by PW-1/informant.

13. Considering the entire discussion made above, I find that the witness examined by prosecution has failed to prove beyond reasonable doubt that the accused had committed the offence as alleged.

DECISION: This point is therefore decided in the negative and goes against the prosecution.

ORDER

14. In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the witness examined by prosecution has failed to prove beyond reasonable doubts that accused Md. Anarul Haque has committed the offence punishable under section 498(A) of IPC as alleged, and as such, the said accused is acquitted of the charges under section 498(A) of IPC on benefit of doubt and he be set at liberty forthwith.

The bail bond of the accused 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 31st day of March, 2021.

The case is disposed of on contest.

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

APPENDIX**PROSECUTION EXHIBITS:**

Exhibit.1 – FIR

DEFENCE EXHIBITS:

NIL

PROSECUTION WITNESSES:

1. PW-1 – Musst. Ramjina Hazarika

DEFENCE WITNESSES:

NIL

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur