

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

G.R CASE NO: 2809 OF 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD MOINUL ISLAM

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

GR CASE NO: 2809/ 2018

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

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD MOINUL ISLAM

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SRI PANKAJ SAIKIA

CHARGE FRAMED ON : 03/02/2020
EVIDENCE RECORDED ON : 29/02/2020

ARGUMENT HEARD ON : 29/02/2020
JUDGMENT DELIVERED ON : 29/02/2020

JUDGMENT

PROSECUTION'S CASE IN BRIEF

1. Prosecution's case in brief as it reveals from the FIR is that informant Mustt. Halima Begum got married to accused Md. Moinul Islam about 11 years prior to the lodging of this case. After marriage, the accused started to torture the informant mentally and physically at various points of time. Accused often rebuked the informant verbally. The said accused ousted the informant from his house. The informant having no other alternatives went to her father's house. The informant thereafter lodged an FIR about the occurrence before the in-charge of Silonibari police out post.

2. On receipt of the F.I.R, the I/C of Silonibari O.P forwarded the same to the O/C North Lakhimpur P.S who registered a case being numbered as North Lakhimpur P.S Case No. 1217/2018. After investigation, I.O of the case submitted charge sheet against accused Md. Moinul Islam for the offences 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, charges are framed for the offences punishable u/s 498(A) of IPC against the accused. The charges are 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 (01) 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 Mustt. Halima Begum and thereafter on various dates subjected the informant to mental and physical torture and thereby caused grave injury or danger to her life, limb or health, and thereby committed an offence punishable u/s 498(A) of IPC?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

POINT NO.1 & 2

5. As regards the aforesaid point for determination, informant Mustt. Halima Begum as PW-1 in her evidence-in-chief has stated that she got married to accused Md. Moinul Islam about 03 years back. After marriage, they have started to reside as husband and wife in the house of the accused. She has begotten one male child out of her wedlock. In the year 2017, she had an altercation with the accused with respect to family matter for which she had lodged an FIR against the accused. Ext-1 is that FIR in which Ext-1(1) is her signature. After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably for which she is not willing to proceed with this

case. At present, she is living peacefully with the accused in her matrimonial house. 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 accused Md. Moinul Islam and thereafter in the year 2017 the informant had some dispute with the accused with respect to family matter for which she had lodged this case. There is nothing in the evidence of PW-1 (informant-cum-victim) which can show that the accused ever tortured the informant mentally or physically, or that the accused ever demanded from the informant. The PW-1 (informant-cum-victim) has not stated anything about any physical or mental torture by accused upon her, or any demand of dowry by the accused. 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 Md. Moinul Islam 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 29th day of February, 2020.

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 – Md. Moinul Islam

(D) DEFENCE WITNESSES

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur