

**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. 1660/2015

Under section 498-A of the Indian Penal Code

State of Assam

-Vs-

Md. Abu Sahid

..... Accused

Date of framing charge : 20.05.2016
Dates of recording evidence : 19.12.2016, 05.08.2019,
04.11.2019, 25.02.2020
Date of examination u/s 313, Cr.P.C. : 25.02.2020
Date of argument : 25.02.2020
Date of judgment : **25.02.2020**

Advocates appeared in the case:-

Sri Prasanta Dutta and Smti. Ajanta Sharma Baruah, Addl. P.P., for the State
Smti. Minakhi Dutta Gohain Baruah, Advocate, for the accused

J U D G M E N T

1. This case has arisen out of an ejahar lodged on 23.08.2015 by informant Musstt. Achiya Begum with the In-charge of Bangalmara Police Outpost under Bihpuria Police Station alleging therein that the accused Md. Abu Sahid is her husband and since after her marriage he has been subjecting her to cruelty by torturing her physically and mentally to her. Hence, the case.

2. The In-charge of Bangalmara Police Outpost on receipt of the ejahar effected a G.D. Entry vide Bangalmara O.P. G.D. Entry No. 314 dated 23.08.2015 and forwarded the ejahar to the Officer-in-charge of Bihpuria Police Station to register a case under proper section of law. On receipt of

the ejahar, the Officer-in-charge of Bihpuria Police Station registered a case vide Bihpuria P.S. Case No. 302/2015 under section 498-A of the Indian Penal Code 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 against the accused Md. Abu Sahid 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 altogether examined 5 (five) witnesses viz. Md. Hussain Ali as PW-1, Md. Jahur Ali as PW-2, Md. Rajib Ali as PW-3, Md. Abdul Jalil as PW-4 and Musstt. Achiya Begum as PW-5. The prosecution had exhibited the ejahar as Ext-1 and the signature of the informant (PW-1) therein as Ext-1(1). The defence side has cross-examined the prosecution witnesses. After the closure of the prosecution evidence, the accused was examined under section 313 of the Code of Criminal Procedure wherein he pleaded his innocence. He declined adducing any defence evidence.

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. Achiya Begum, since after her marriage, at village Sonapur

Reserve Gaon, under Bihpuria Police Station, had subjected her to cruelty by committing physical and mental tortures on her posing a threat to her life and limb ?

DISCUSSION, DECISION AND REASONS THEREOF:

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

8. PW-1 Md. Hussain Ali in his evidence stated that the informant and the accused are husband and wife and over some quarrel between them the informant had left the house of the accused and took shelter in the house of Jaharuddin.

9. In his cross-examination, PW-1 stated that Jaharuddin was having an illicit relationship with the informant and that he had not witnessed the quarrel between the informant and the accused.

10. PW-2 Md. Jahur Ali deposed in his evidence that the informant after her marriage with the accused had went away with another person.

11. In his cross-examination, PW-2 stated that the informant fled away with one Jaharuddin.

12. PW-3 Md. Rajib Ali also similarly stated that there was a quarrel between the informant and the accused and the informed left the house of the accused.

13. Now the informant and victim of this case Musstt. Achiya Begum who deposed as PW-5 in her evidence deposed that she was married with the accused in the year 2014 and out of this wedlock a girl child was born to her who is presently 5 (five) years old. She further stated in her evidence that her husband i.e. the accused is a blind and over some family matters she had a quarrel with him and later out of rage moved out from his house and went to her parental house.

14. In her cross-examination, PW-5 she stated that she has no objection if the accused is acquitted as this case arose only out of a misunderstanding.

15. So from the evidence on record it transpires that none of the PWs has stated anything about the accused committing any cruelty on the informant. On the other hand, they have stated that it was the informant who in fact had fled away with another person. The informant Musstt. Achiya Begum herself in her evidence as PW-5 testified that all that happened between her and her husband was a quarrel over some family matters and she only out of misunderstanding had lodged the case against the accused.

16. So, in the given position from the evidence on record it can no way be held that the accused has subjected the informant to cruelty by committing physical and mental torture on her.

17. So, the aforesaid point of determination is held in negative.

18. In the result, the prosecution has failed to prove the charge against the accused under section 498-A of the Indian Penal Code and as such he is acquitted from the said charge and is set at liberty.

19. Bail bonds are extended to for the further 6(six) months from today.

20. The judgment is delivered and operative part of the same is pronounced in the open court on this 25th day of February, 2020.

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

Dictated and Corrected by me:

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

Continued (Appendix)

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Md. Hussain Ali (PW-1)

Md. Jahur Ali (PW-2)

Md. Rajib Ali (PW-3)

Md. Abdul Jalil (PW-4)

Musstt. Achiya Begum (PW-5)

PROSECUTION EXHIBIT

Ejahaar (Ext-1)

Signature of PW-1 [Ext-1(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

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

Transcribed and typed by me:

Narayan Chetri, Stenographer