

**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. 2246/2017

Under section 498-A of the Indian Penal Code

State of Assam

-Vs-

Sri Laba Dutta

..... Accused

Date of framing charge : 19.05.2018
Dates of recording evidence : 26.11.2018, 19.10.2019,
27.11.2019, 26.02.2020
Date of examination u/s 313, Cr.P.C. : 26.02.2020
Date of argument : 26.02.2020
Date of judgment : **26.02.2020**

Advocates appeared in the case:-

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

J U D G M E N T

1. This case has arisen out of an ejahar lodged on 02.08.2017 by informant Smti. Sumu Rai Dutta with the Officer-in-charge of North Lakhimpur Sadar Police Station alleging inter alia that the accused Sri Laba Dutta is her husband and since after her marriage he has been subjecting her to cruelty by torturing her physically and mentally.

Thereafter, on 31.07.2017 the accused physically assaulted the informant and took her to her parental house and left her there. Hence, the case.

2. On receipt of the ejahar, the Officer-in-charge of North Lakhimpur Police Station registered a case vide NLPS Case No. 993/2017 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 Sri Laba Dutta 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. Smti. Sumu Rai Dutta as PW-1, Smti. Putali Kakati as PW-2, Sri Ram Dutta as PW-3, Sri Lekhon Dutta as PW-4 and Smti. Mamoni Rai as PW-5. The prosecution had exhibited the ejahar as Ext-1 and the signatures of the informant and victim (PW-1) therein as Ext-1(1) and Ext-1(2). 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 and victim Smti. Sumu Rai Dutta, since after her marriage and subsequently on 31.07.2017, at village Napamua Gaon, under North Lakhimpur 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 Smti. Sumu Rai Dutta, the informant and victim, deposed that the accused being her husband had demanded her dowry by asking her to bring money and cooking gas and as she could not fulfill the said demands he used to physically assault her.

9. In her cross-examination, PW-1 stated that she had in fact lodged this case against the accused out of a misunderstanding and she has no objection if the accused is acquitted as the dispute between them has been amicably settled.

10. PW-2 Smti. Pubali Kakoti deposed that the accused at night used to leave his house leaving his wife in the house and that her in-laws used to quarrel with her and the accused one day had severely assaulted her and pushed her down to ground and subjected her to tortures.

11. PW-3 Sri Ram Dutta and PW-4 Sri Lekhon Dutta deposed in the same tune. According to them, the marriage of the informant and the

accused took place about three years back and presently the informant is residing in her parental house but they does not know the reason for which the informant and the accused are living separately.

12. PW-5 Smti. Mamoni Rai deposed that the accused is the husband of the informant and they were married about three years back and lead a conjugal life together in the house of the accused at Gharmora village for three months and thereafter the accused had a quarrel with the informant and kept her in her house and did not enquire about her and as such the informant lodged an ejahar against the accused.

13. In his cross-examination, PW-5 stated that she has no objection if the accused is acquitted as her daughter in fact had filed this case only out of a misunderstanding.

14. So from the evidence on record it transpires that though PW-1 Smti. Sumu Rai Dutta, the informant and victim, deposed that the accused had demanded her dowry by asking her to bring money and cooking gas and as she could not fulfill the said demands he used to physically assault her but in her cross-examination she testified that she had in fact lodged this case against the accused out of a misunderstanding and she has no objection if the accused is acquitted as the dispute between them has been amicably settled. Similarly though PW-3 Smti. Mamoni Rai, mother of PW-1, deposed that the accused had a quarrel with the informant and kept her in her house and did not enquire about her but in her cross-examination, she has also testified that she has no objection if the accused is acquitted as her daughter in fact had filed this case only out of a misunderstanding. PW-3 Sri Ram Dutta and PW-4 Sri Lekhon Dutta have clarified in their evidence that they don't know the reason for which the informant is residing in her parental house.

15. 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.

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

17. 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.

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 26th 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

Transcribed and typed by me:
Narayan Chetri, Stenographer

Continued (Appendix)

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Smti. Sumi Rai Dutta (PW-1)

Smti. Putali Kakati (PW-2)

Sri Ram Dutta (PW-3)

Sri Lekhon Dutta (PW-4)

Smti. Mamoni Rai (PW-5)

PROSECUTION EXHIBIT

Ejahaar (Ext-1)

Signature of PW-1 [Ext-1(1), Ext-1(2)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

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