

**IN THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR.**

GR CASE NO.3479/2017

U/S 498A IPC

PRESENT:

SMT. SWEETY BHUYAN

Judicial Magistrate 1st Class
Lakhimpur, North Lakhimpur.

PARTIES:

STATE OF ASSAM

Vs

MD. JIYA UDDIN @ JEHIRUL ISLAM

..... **Accused person**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused person: MR. ANANDA DUTTA

&

MR. NABOJYOTI SAIKIA

Dates of Evidence: 20.11.2019

Date of Argument: 06.12.2019

Date of Judgment: 07.02.2020

(After argument, the date of judgment was fixed on 16.12.2019, but on that day the accused was absent with steps, as such, the next date was fixed for judgment on 27.12.2019 and on that date, T.M. was availing civil holiday and the date of judgment was fixed on 08.01.2020, but on that date the accused was absent without any steps, as such, NBWA was issued against him and the date of judgment was fixed on 07.02.2020)

JUDGMENT

- 1.** The accused person, namely, **Md. Jiya Uddin @ Jehirul Islam**, S/o Md. Sulman Ali, R/o village- Mornoigaon, P.S.- Bihpuria, in the District of Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under section 498A of the Indian Penal Code.
- 2.** The brief facts of the prosecution case is that the accused eloped the sister of the informant and thereafter married her. After one and half years, the accused alongwith his parents demanded money from the sister of the informant and tortured her mentally and physically. That they tried to chase her out of their house but as they did not succeed, they lodged a case against the sister of the informant and she was kept in custody. Hence, the case and the same was registered as Bihpuria Police Station Case No.1072/2017 under Sections 498A/506 of the Indian Penal Code against three persons, namely, Md. Jiya Uddin @ Jehirul Islam, Musstt. Asia Khatoon and Md. Sulman Ali named in the ejahar. The I.O submitted Charge Sheet against one of the accused Md. Jiya Uddin @ Jehirul Islam under Section 498A of IPC. The accused person took bail from the court and copy has been furnished to the accused u/s 207 CrPC.
- 3.** On going through the materials on record, this court is of the opinion that there is sufficient grounds to presume that the accused person has committed an offence under Section 498A of the Indian Penal Code, which this court is competent to try and adequately punish. Accordingly charge under the said Section is framed and the particulars of the said offences are read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution has adduced 2(two) PWs and 1(one) CW. The statement of the accused person u/s 313 CrPC is dispensed with due to lack of incriminating materials.
5. After perusing the case record and hearing both sides the following point of determination is framed:
 - (i) Whether the accused, being the husband of the sister of the informant, namely, Mofida Khatoon, after one/one and half years of his marriage, mentally and physically tortured the sister of the informant by demanding dowry and subjected the informant to cruelty, and thereby committed the offence under section **498A** of the Indian Penal Code?

DECISIONS AND REASONS FOR DECISION:

6. I have heard the argument from both sides.
7. The PW1/informant, Faijul Islam, who is the brother of the victim, stated in his evidence that the incident took place about one year ago. There were some quarrels between Mofida Begum and her husband and he was informed about the matter. There was some misunderstanding between them and he lodged this case against the accused person out of anger. The accused and his sister have been staying peacefully together since after filing the case.

In cross-examination, he stated that he has no objection if the accused is acquitted. He has no grievances against him.

8. The PW2 Najima Khatoon, who is the wife of the informant, stated in her evidence that the incident took place about one and half years ago. There were some quarrels between the sister of the informant and her husband, i.e., the accused and she out of anger informed the matter

to her husband, i.e., the informant, and he lodged the case. The accused and the sister of the informant have been staying peacefully together since after filing the case. However, her cross-examination was declined by the defence.

- 9.** The CW1 Mofida Begum, who is the victim of this case, stated in her evidence that the accused is her husband and the incident took place about three years ago. There were some quarrels between her and her husband and she out of anger informed the matter to her brother and he lodged the case. The accused and she have been staying peacefully together since after filing the case, i.e., since last two years. The accused did not assault her nor torture her. There were only quarrels between them.

In cross-examination, she stated that she has no objection if the accused is acquitted. She has no grievances against him.

- 10.** This is a case under Section 498A IPC, where the CW1 who is the victim/sister of the informant of this case stated in her evidence that the accused is her husband and the incident took place about three years ago. There were some quarrels between her and her husband and she out of anger informed the matter to her brother and he lodged the case. The accused and she have been staying peacefully together since after filing the case, i.e., since last two years. The accused did not assault her nor torture her. There were only quarrels between them. In her cross-examination, the CW1 stated that she has no grievances against the accused and has no objection if the accused is acquitted. The PW1/informant stated that there were some quarrels between Mofida Begum and her husband and he was informed about the matter. There was some misunderstanding between them and he lodged this case

against the accused person out of anger. The accused and his sister have been staying peacefully together since after filing the case. In his cross-examination, he deposed that he has no grievances against the accused. The PW2, who is the wife of the informant, stated that there were some quarrels between the sister of the informant and her husband, i.e., the accused and she out of anger informed the matter to her husband, i.e., the informant, and he lodged the case. The accused and the sister of the informant have been staying peacefully together since after filing the case.

11. The CW1, PW1 and PW2 did not state about any offence committed by the accused person. The PW1 and the victim/CW1 are the main witnesses being the informant and the victim and they did not support their own case. Neither of them deposed about any mental or physical tortures by the accused upon the victim by demanding dowry. Hence, the guilt of the accused person could not be established by the prosecution. Hence the accused person is hereby not found guilty of the offence u/s 498A of the Indian Penal Code.

12. Hence, summing up all that has been discussed above, the prosecution has failed to prove the guilt of the accused person u/s 498A of the Indian Penal Code beyond reasonable doubt.

(Contd....)

ORDER

As this court finds the accused person, namely, **Md. Jiya Uddin @ Jehirul Islam** not guilty of the offence u/s 498A of the Indian Penal Code, the accused person is acquitted of the charges u/s 498A of the Indian Penal Code.

The accused person is set at liberty forthwith.

The bail bond is extended for 6 (six) months from today.

The judgment is pronounced in the open court.

Given under my hand and seal of this court on 7th of February, 2020.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
Lakhimpur, North Lakhimpur

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)
JMFC,NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

APPENDIX

Prosecution witnesses

1. PW1 : FAIJUL ISLAM
2. PW2 : NAJIMA KHATOON

Court witness

1. CW1 : MOFIDA BEGUM

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. Ext.1: Ejahar

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
Lakhimpur, North Lakhimpur

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(SMT. SWEETY BHUYAN)
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Kumar Gaurav (Stenographer)