

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

G.R CASE NO: 144 OF 2017
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD. SAIDUR RAHMAN

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

GR CASE NO: 144 / 2017

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

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. SAIDUR RAHMAN

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SMTI RUNA AHMED

CHARGE FRAMED ON : 27/09/2019
EVIDENCE RECORDED ON : 11/10/2019

ARGUMENT HEARD ON : 11/10/2019
JUDGMENT DELIVERED ON : 11/10/2019

JUDGMENT

PROSECUTION'S CASE IN BRIEF

1. Prosecution's case in brief as it reveals from the FIR is that informant Musstt. Musfika Begum got married to accused Md. Saidur Rahman about four years prior to the lodging of the F.I.R. After about one year of marriage, the accused started to torture the informant mentally and physically. The accused demanded Rupees 20,000/- from the informant but the informant failed to meet the demand of accused. For that reason, while the informant was under treatment at her mother's house, at that time, the accused on 31/01/2016 at about 02:00 P.M went there and tortured the informant physically by pulling her hairs and dashing

her onto the bed and thereby causing injury on her head. The informant thereafter lodged an FIR about the occurrence before the In –Charge of Bangalmora Police Out Post.

2. On receipt of the F.I.R, the I/C of Bangalmora O.P forwarded the same to O/C Bihpuria P.S who registered the same as Bihpuria P.S Case No. 37/17. After investigation, I.O of the case submitted charge sheet against accused Md. Saidur Rahman for the offence 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, charge is framed for the offence punishable u/s 498(A) of IPC against the said accused. The charge was 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 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 Musstt. Musfika Begum about four year prior to lodging of this case and thereafter on several dates including 31/12/2016, subjected the informant to torture, both mentally and physically, with a view to coerce her to meet an unlawful demand of dowry; or thereby caused grave injury or danger to her life, limb and health, and thereby committed an offence punishable u/s 498(A) of IPC?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

POINT NO.1

5. As regards the aforesaid point for determination, PW1 Musstt. Musfika Begum in her evidence in chief has stated that she is the informant. Accused Md. Saidur Rahman is her husband. She got married to the accused about 06 years back. After marriage she started to reside with the accused in his house as husband and wife. In the year 2017, she had an altercation with the accused with respect to some family matter for which she had to come back to her mother's house. She

then lodged an FIR against the accused. Exhibit-1 is that FIR in which Exhibit-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 residing with the accused in his house as husband and wife. 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. Saidur Rahman about four years back and thereafter in the year 2017 the informant had some dispute with the accused with respect to family matter for which she lodged this case against the accused. There is nothing in the evidence of PW1 which can show that the accused ever demanded any dowry from the informant or tortured the informant in connection with that demand. 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: This point 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 points for determination, it is held that the witness examined by prosecution has failed to prove that accused Md. Saidur Rahman 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 11th day of October, 2019.

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 – Musstt. Musfika Begum

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur