

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

GR CASE NO.787/2013
U/s 498A IPC

PRESENT:

SMT. SWEETY BHUYAN
Judicial Magistrate 1st Class
Lakhimpur, North Lakhimpur.

PARTIES:

State of Assam

Vs

1. MOHAR ALI
2. INARUDDIN **ACCUSED PERSONS**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused persons.....: MRS. M.D. GOHAIN BORUAH

Dates of Evidence: 24.01.2014, 10.04.2017

Date of Argument: 27.03.2019

Date of Judgment: 10.04.2019

JUDGMENT

- 1.** The accused person, namely, **Mohar Ali**, Son of Md. Inaruddin **and Inaruddin**, Son of S/o Late Hazrat Ali, both residents of village- No.1

Dharmapur, P.S.- Laluk, 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 IPC.

- 2.** The informant stated in her ejahar that after her marriage with the accused Mohar Ali, the said accused and his father, i.e., the other accused Inaruddin demanded Rs.5,00,000/- from her and assaulted her and threatened her that if she did not pay the said amount then they will assault her and chase her out of their house. That during the absence of her husband her father-in-law made obscene gestures to her and tried to outrage her modesty. That her father-in-law has been creating difficulties for her in eating food and when she informed the same to her husband, her husband blamed her and assaulted her. That all the jeweleries which were given to her at the time of her marriage have been kept by her father-in-law. Hence, the case, and the same was registered as Laluk Police Station Case No.92/2013 under Section 498A of the Indian Penal Code against Mohar Ali and Inaruddin named in the ejahar. The Investigating Officer submitted Charge Sheet against the accused persons Mohar Ali and Inaruddin under Section 498A of the Indian Penal Code.
- 3.** After perusing CR, formal charge u/s 498A of the Indian Penal Code was framed by my Learned Predecessor and read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution has adduced 3(three) PWs, including the informant/victim. Vide order dated 10.04.2017 my Learned Predecessor closed the prosecution evidence. The statements of the accused persons were recorded under Section 313 Cr.P.C. and the accused persons denied of committing the alleged offence and did not adduce the evidence in their support.
5. After perusing the case record and hearing both sides the following point of determination is framed:

The Point for Determination:

- (i) Whether the accused persons, namely, Md. Mohar Ali being the husband of the informant/victim Rukiya Begum and another accused Md. Inaruddin, being the father-in-law of the informant/victim, subjected her to cruelty by physical assault and torture in her matrimonial house, and thereby committed offence under section 498A IPC ?

Decisions and Reasons for decision:

6. I have heard the argument from both sides.
7. Hence, it is to be determined whether the accused persons committed cruelty upon the informant by physical assault and torture. Cruelty under the facts and circumstances of this case falls within the meaning of Section 498A Explanation (b) of the IPC, which provides that cruelty means harassment of the woman where such harassment is with a view to coercing her any person related to her to meet any

unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

- 8.** The informant stated in her ejarah that after her marriage with the accused Mohar Ali, the said accused and his father, i.e., the other accused Inaruddin demanded Rs.5,00,000/- from her and assaulted her and threatened her that if she did not pay the said amount then they will assault her and chase her out of their house. That during the absence of her husband her father-in-law made obscene gestures to her and tried to outrage her modesty. That her father-in-law has been creating difficulties for her in eating food and when she informed the same to her husband, her husband blamed her and assaulted her. That all the jeweleries which were given to her at the time of her marriage have been kept by her father-in-law.
- 9.** The informant in her evidence before the court as PW1 stated that her marriage with the accused Mohar Ali took place about one and half years ago and she stayed in her matrimonial house for seven months. That the accused persons demanded Rs.5,00,000/- from her father's house and did not give her to eat. That her husband assaulted her every day when he returned from his work. That her father-in-law wanted to do obscene act with her. One day her father-in-law even opened her clothes for committing rape on her at night. When the informant raised cries, people came and her father-in-law fled away and thereafter, she lodged the case.

10. The PW2 Yanush Ali, who is the father of the informant, stated in his evidence that the marriage of the informant took place about one and half years ago with the accused Mohar Ali. That the accused persons assaulted the informant by demanding dowry. After about seven months of their marriage, both separated due to such tortures. The informant informed him that her father-in-law tried to rape her after opening her clothes and snatching her jewelries.

11. From the above evidences, it can be known that the informant alleged that the accused persons being her husband and her father-in-law demanded dowry from her and assaulted her. In her 164 Cr.P.C. statement also she stated that the accused persons demanded dowry from her after her marriage and assaulted her. The prosecution in support of its case also adduced the evidence of the PW2 who is the father of the informant, who stated that both the accused persons assaulted the informant by demanding dowry, but however, in his cross-examination he admitted the fact that he did not see the accused persons assaulting his daughter and that he also did not see that the accused persons did not give her to eat food. Although the victim alleged the fact of being tortured by the accused persons with demand of dowry, but the prosecution has not been able to produce sufficient evidence in support of its case. And the PW2 is the father of the victim who deposed whatever was informed to him by his daughter, i.e., the victim and he also admitted that he did not see any such assault committed by the accused persons.

12. This is a case under Section 498A IPC where the evidences of the neighbours of the matrimonial house of the informant could have been material in deciding the guilt of the accused, but the prosecution failed to produce such witnesses, and as such, the evidence of the victim unsupported by other witnesses cannot be held sufficient for establishing the guilt of the accused persons and the evidence of the PW2 cannot be said to corroborate the evidence of the victim as he did not see the tortures and was only informed by the victim.

13. Hence, considering the nature of the evidences and lack of sufficient evidences, the guilt of the accused could not be established by the prosecution and raises several doubts as to the commission of the offences by the accused persons. As such, considering all the above, the accused persons cannot be held guilty of the offence under Section 498A of the Indian Penal Code and thereby acquitted of the said charges.

(CONTD.....)

ORDER

As this court finds the accused persons, namely, **Mohar Ali and Inaruddin**, not guilty of the offence u/s 498A of the Indian Penal Code, the accused persons are acquitted of the charge u/s 498A of the Indian Penal Code.

The accused persons are set at liberty forthwith.

The bail bonds are 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 10th of APRIL, 2019.

(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 : RUKIYA BEGUM
2. PW2 : MD. YANUSH ALI
3. PW3 : SRI ARUN CHANDRA DEKA

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. EXT.1: EJA HAR
2. EXT.2: STATEMENT OF VICTIM U/S 164 CR.P.C.
3. EXT.3: SKETCH MAP
4. EXT.4: CHARGE SHEET

Documents exhibited by the Defence

Nil

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