

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

North Lakhimpur, Lakhimpur

PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS

Judicial Magistrate First Class,

Lakhimpur, North Lakhimpur

C.R.(W) Case No.64/2019

Musstt. Nurjahan Begum

Versus

Ayub Ali and others

(Under sections 406/34 IPC)

Evidence before charge	: 06.03.2020
Charge framed on	: 03.04.2021
Evidence after charge	: 03.04.2021
Statements recorded on	: Dispensed with
Arguments heard on	: 03.04.2021
Judgment delivered on	: 03.04.2021
Advocate for the complainant	: Smti. Moromi Doimari
Advocate for the accused persons	: Mr. Homen Das

J U D G E M E N T

- 1.** Accused persons stood for trial for commission of offence u/s 406/34 IPC.
- 2.** The complainant Musstt. Nurjahan Begum lodged a complaint case against the accused persons alleging *inter alia* that she was married to Md. Ramjan Ali on 11.08.2011 according to Islamic rites and customs and thereafter both

parties started their conjugal life and resided together as husband and wife. Out of the said wedlock two children were born to them. On 21.03.2019 the husband of the complainant expired and since then the accused persons started to torment mental and physical tortures upon the complainant. The complainant tolerated the tortures meted to her but being helpless she had to return her to her parental house along with her two children. On 09.05.2019 the complainant along with her two children visited her matrimonial house to bring back all her articles given at the time of her marriage but the accused persons resisted her and further threatened her not to visit their home in future. On 11.06.2019 the complainant visited her matrimonial house for the purpose of NRC hearing but the accused persons assaulted the complainant and tore her clothes and took away one gold earring and cash amounting to Rs.5,000/- (Rupees Five Thousand Only). It is stated by the complainant that the accused persons threatened to abduct the elder daughter of the complainant and in this regard the complainant lodged an ejahar before Bihpuria P.S. The accused persons also lodged a false case against the complainant and her brother Rekib Ahmed before the Bihpuria P.S. Hence, this case.

3. After the registration of the complaint case, the statement of the complainant was recorded under section 200 of the Code of Criminal Procedure. The statement of the witnesses was recorded under section 202 of the Code of Criminal Procedure. After perusal of the complaint petition, statement of the witnesses and after finding sufficient materials, cognizance under section 406/34 of the Indian Penal Code was taken against the accused persons. Thereafter examination-in-chief of the complainant was recorded and cross-examination kept reserved. After perusal of the materials available in the case record, formal charges under section 406/34 of the

Indian Penal Code was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. After framing charges complainant was cross-examined by the defence and discharged.

4. Complainant in support of its case has examined only one (1) witness.

5. The statement defence of the accused persons u/s 313 of the Code of Criminal Procedure is dispensed with as no incriminating materials were found against them. Accused persons denied to adduce evidence in their support.

6. I have heard the arguments advanced by the learned counsel for the complainant as well as the accused persons. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

POINTS FOR DETERMINATION:

Point No 1: Whether the accused persons being relatives of husband of the complainant in furtherance of common intention were entrusted with the stridhan articles given to the complainant at the time of marriage and converted the same for their own use and thereby committed an offence punishable u/s 406/34 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

7. Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case. From the evidence of **P.W-1/complainant Nurjahan Begum**, it reveals that the complainant is no more interested to proceed with the case against the accused persons on the ground that the matter is amicably settled between them. It also reveals that the complainant

herself has refused to lead evidence against the accused in support of the complainant lodged in this case by her. In her cross-examination the complainant deposed that she received all her stridhan articles given at the time of her marriage and she no longer intend to proceed with the case against the accused persons. Thus, from the little evidence that has been brought before this court in the form of statement made by the complainant/P.W-1, it is seen that no offence has been made out against the accused under any section of law. Situated thus, it is found that the complainant has failed to implicate the accused of any offence.

ORDER

- 8.** In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused persons namely Ayub Ali, Romisa Begum, Rafiqul Islam, Robiya Begum and Rajak Ali. Accordingly, accused persons are is acquitted of the charge u/s 406/34 IPC levelled against them in this instant case.
- 9.** Set the accused persons at liberty forthwith.
- 10.** The bail bonds for the accused persons are extended for a further period of six (6) months.
- 11.** The case is disposed of on contest accordingly.

Given under my hand and seal on this 03rd day of April, 2021 at North Lakhimpur, Lakhimpur.

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Lakhimpur, North Lakhimpur

APPENDIX

A. WITNESS OF PROSECUTION:

1. P.W-1 : Musstt. Nurjahan Begum

B. EXHIBITS OF PROSECUTION: NIL

C. WITNESS OF DEFENSE: NIL

D. EXHIBITS OF DEFENSE: NIL

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Lakhimpur, North Lakhimpur