

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, UDALGURI, ASSAM

P. R. Case No. 60 of 2020 U/s 498-A of the Indian Penal Code

State of Assam

-Vs-

Sri Bhupen Goswami

S/o- Late Nirranjan Goswami

R/o -Vill.-Uttar Naobandha

P.S.- Dimakuchi

Dist.- Udalguri, Assam **Accused.**

Present:- *Sri D. K. Kalita, A. J. S.*

Addl. Chief Judicial Magistrate, Udalguri, Assam

Appearance:

For the State : Mr. J. Daimari, Asst. P.P.

For the Defence : Mr. T. C. Boro, Adv.

Date of Evidence : 29.11.21

Date of Argument : 29.11.21

Date of Judgment : 03.12.21

J U D G M E N T

1. Prosecution case, in brief, is that on 12.07.2018, one Smt. Sandha Goswami lodged an ejahar with the In-Charge, Khagrabari Out Post under Dimakuchi P.S. alleging inter-alia that she has been married for about 20 (twenty)

years and she is mother of three children. She has been harassed by her husband Bhupen Goswami. Though village people, 'Asha' and Village Headman compromised for many occasions, but, accused continued to harass her. Accused assaulted her mother and started to assault his children. Accused has created such circumstances which compelled her to take shelter at her maternal home and her children at the house of their paternal uncle.

2. On receipt the said ejahar, the In-Charge, Khagrabari O.P. made Khagrabari O.P. G.D.E. No. 180 dated 12.07.018 and forwarded the same to the Officer-in-Charge, Dimakuchi P.S. for registering a case under proper sections of law. Accordingly, upon such forwarding, Dimakuchi P.S. Case No. 65/2018 under Section 498-A I.P.C. was registered and investigated into. On completion of the investigation, the Investigating Officer submitted charge-sheet under Sections 498-A/307 I.P.C. against the accused.

3. On appearance before the Court, necessary copies were furnished to the accused and case was committed to the court of Hon'ble Sessions Judge, Udalguri as the offence under Sec. 307 I.P.C. is exclusively triable by the court of Hon'ble Sessions Judge. Hon'ble Assistant Sessions Judge, Udalguri was pleased to send back the case to this court to try the case under Sec. 498-A IPC. Thereafter, on hearing both the sides, charge under Section 498-A I.P.C. was framed against the accused and on being

read over and explained the said charge, the accused pleaded not guilty and claimed to be tried.

4. In support of its case, prosecution side examined only the informant cum victim. Thereafter, prosecution evidence was closed on prayer of the prosecution. Accused has been dispensed with the examination under Section 313 Cr.P.C. since the same is found not necessary.

5. I have heard arguments of the learned counsels for both the sides at length, gone through the case record and perused the evidence carefully.

POINT FOR DETERMINATION IS:

6. *Whether the accused, being husband of the informant Smt. Sandha Goswami, subjected her to cruelty since after her marriage and compelled her to leave her matrimonial home and thereby committed an offence punishable under Section 498-A I.P.C.?*

DISCUSSION, DECISION AND REASONS THEREON:

7. *P.W.-1, Smt. Sandhya Goswami*, is the informant cum victim who has stated in her evidence that accused is her husband. She was married to the accused about 17/18 years ago as per social rites and customs. Three children were born out of their wedlock. Her husband used to take wine. About two/three years ago, some differences arose between them. Then she left her matrimonial home and filed case against the accused. Her children are living at her

matrimonial home with her husband. She also look after her children. *In her cross-examination*, she has stated that she has married one Krishna Rajbongshi. She filed the case against the accused due to misunderstanding. She has no grievance against the accused.

8. It is revealed from the evidence of the informant cum victim (PW-1) that she was married to the accused about 17/18 years ago as per social rites and customs and three children were born out of their wedlock. About two-three years ago, some differences arose between them and then she left her matrimonial home and filed case against the accused. She has not stated anything in her evidence about subjecting her to any kind of cruelty by the accused. She has even not supported the story stated in the ejahar. It is found from her cross-examination that she filed the case against the accused due misunderstanding. Having regard to lack of evidence, I am of the considered opinion that the prosecution has failed to bring home the charge against the accused and as such the accused deserves acquittal.

ORDER

9. In view of the conclusion made above, I hold the accused not guilty of the offence under 498-A I.P.C. and hence, he is acquitted of the said offence. Accused is set at liberty forthwith.

10. The bail-bond of the accused shall remain in force for a period of six months from the date of this order.

11. The judgment is delivered in the open Court in presence of the accused and his learned Counsel.

Given under my hand and the seal of this court on this 3^d day of December, 2021.

(D. K. Kalita)

Addl. C.J.M., Udalguri

Dictated and corrected by me,

(D. K. Kalita)

Addl. C.J.M., Udalguri

APPENDIX

1. Prosecution Witness:

P.W.1- Smt. Sandhya Goswami

2. Prosecution Exhibit: Nil

3. Court Witness: Nil

4. Defence Witness: Nil

5. Defence Exhibit: Nil

(D. K. Kalita)

Addl. C.J.M., Udalguri