

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

**P. R. Case No. 731 of 2020 U/s 498-A of the Indian Penal
Code**

State of Assam

-Vs-

Md. Magarab Ali

S/o- Md. Tota Miya

R/o -Vill.- Lawdong

P.S.- Udalguri

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. N. Islam, Adv.

Date of Evidence : 04.12.21

Date of Argument : 04.12.21

Date of Judgment : 04.12.21

J U D G M E N T

1. Prosecution case, in brief, is that on
07.08.2020, one Mustt. Lal Bhanu lodged an ejahar with

the In-Charge, Sapmari Out Post under Udalguri P.S. alleging inter-alia that her daughter Mustt. Taslima Khatoon was married to the accused about three years ago in accordance with social rites and customs. After about one year of marriage, accused subjected her daughter mentally and physically by demanding one bigha of land. The accused assaulted her daughter and confined her from 01.08.20 to 03.08.20.

2. On receipt the said ejahar, the In-Charge, Sapmari O.P. made Sapmari O.P. G.D.E. No. 119 dated 07.08.2020 and forwarded the same to the Officer-in-Charge, Udalguri P.S. for registering a case under proper sections of law. Accordingly, upon such forwarding, Udalguri P.S. Case No. 176/2020 under Sections 294/325/354/498-A/34 I.P.C. was registered and investigated into. On completion of the investigation, the Investigating Officer submitted charge-sheet under Section 498-A I.P.C. against the accused.

3. On appearance before the Court, necessary copies were furnished to the accused and 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 and 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 Mustt. Taslima Khatoon, the daughter of the informant, subjected her to cruelty since one year after her marriage by assaulting her and by demanding her dowry 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. *PW-1, Mustt. Lal Bhanu, is the informant who has stated in her evidence that her daughter Taslima Khatoon was married to accused about two-three years ago and one male child was born out of their wedlock. About one year ago, some differences arose between her daughter and the accused and then she left her matrimonial home. Now they have sorted out their differences and are living together happily. In her cross-examination, she has stated that she has no grievance against the accused. PW-2, Mustt. Taslima Khatoon, is the*

victim who has stated in her evidence that she was married to the accused about four years ago and one male child was born out of their wedlock. About one year ago, some differences arose between her and her husband and then she left her matrimonial home. They have sorted out their differences and are living together happily. *In her cross-examination*, she has stated that she has no grievance against the accused.

8. It is revealed from the evidence of the informant (PW-1) and the victim (PW-2) that the victim (PW-2) was married to the accused and about one year ago, some differences arose between them and she left her matrimonial home. None of the prosecution witnesses has stated anything about subjecting the victim (PW-2) to any kind of cruelty or demanding any dowry by the accused. Thus, no evidence comes out from the testimonies of the prosecution witnesses as regards subjecting the victim (PW-2) to any kind of cruelty. 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 4th 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 Witnesses:

P.W.1- Mustt. Lal Bhanu

P.W.2- Mustt. Taslima Khatoon

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| 2. Prosecution Exhibit: | Nil |
| 3. Court Witness: | Nil |
| 4. Defence Witness: | Nil |
| 5. Defence Exhibit: | Nil |

(D. K. Kalita)

Addl. C.J.M., Udalguri