

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

P. R. Case No. 67 of 2021 U/s 498-A of the Indian Penal Code

State of Assam

-Vs-

Md. Haijul Islam

S/o- Late Nur Mahammad

R/o -Vill.- Biskhuti

P.S.- Orang

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 : 07.12.21

Date of Argument : 07.12.21

Date of Judgment : 07.12.21

J U D G M E N T

1. Prosecution case, in brief, is that on 26.08.2020, one Mustt. Marjina Khatoon lodged an ejahar with the Officer-in-Charge, Orang P.S. alleging inter-alia

that on that day, at about 8.00 A.M., her husband and mother-in-law assaulted her demanding dowry and money. She sustained injuries on different parts of her body when the accused and his mother assaulted her with bamboo stick. It is also alleged that before the incident, the accused assaulted her causing injury and she filed case in police station and accused promised her to give her one bigha of land for her maintenance. But, accused breached his promise and harassed her. Her own residence became unsuitable for her due to the harassment meted out to her by the accused. Accused intimidated her to kill her and to throw her into river.

2. On receipt the said ejahar, Orang P.S. Case No. 87/2020 under Section 498-A 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 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 Mustt. Marjina Khatoon, on or before 26.08.2020, at Bishkhuti under Orang P.S., subjected her to cruelty by demanding her dowry, assaulting her, intimidating her and causing injuries on different parts of her person and thereby committed an offence punishable under Section **498-A** I.P.C.?*

DISCUSSION, DECISION AND REASONS THEREON:

7. *PW-1, Mustt. Marjina Khatoon, is the informant cum victim who has stated in her evidence that she was married to the accused about sixteen years ago and four children were born out of their wedlock. About one year ago, some differences arose between her and her husband and then she left her matrimonial home. She took shelter at her parental home and lodged ejahar against her husband. 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.*

8. It is revealed from the evidence of the informant cum victim (PW-1) that she was married to the accused about sixteen years ago and four children were born out of their wedlock. About one year ago, some differences arose between them and she left her matrimonial home and took shelter at her parental home. Informant cum victim (PW-1) has not stated anything about subjecting her to any kind of cruelty or demanding her dowry or assaulting her or intimidating her by the accused. She has even not supported the story stated in the ejahar. Thus, no evidence comes out against the accused as regards subjecting the informant cum victim (PW-1) to any kind of cruelty as defined under Sec. 498-A IPC. 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 7th 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- Mustt. Marjina 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