

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIOGAON, ASSAM.

GR Case No. 2014/2017

U/S 498(A) IPC

STATE OF ASSAM

-VS-

MD. HABIJUL HOQUE.

S/O MD. JAFAR ALI.

R/O CHAKUMAKU, P/S JAGIROAD.

DIST: MORIGAON, ASSAM.

..... ACCUSED PERSON.

PRESENT: -

SMT. ANAMIKA BARMAN, LL.M., A.J.S.

JUDICIAL MAGISTRATE FIRST CLASS

MORIGAON, ASSAM.

FOR THE STATE: -

MR. M. ISLAM, LEARNED A.P.P.

FOR THE ACCUSED: -

**MR. J. A. BHUTTU & MR. A. SHANEWAS, LEARNED
ADVOCATES.**

EVIDENCE RECORDED ON: - 30.11.2019.

ARGUMENT HEARD ON: - 30.11.2019.

JUDGMENT DELIVERED ON: - 30.11.2019.

JUDGMENT

1. The brief of the prosecution story is that one Md. Ruhul Amin filed an FIR before the Officer-in-Charge, Jagiroad P.S. on 05.08.17 alleging inter-alia that his sister/victim Musstt. Anjuma Begum is the wife of the accused No.1 Md. Habijul Hoque and the

other accused Md. Jafar Ali and his mother are the family members of the accused No.1. After a few days of the victim's marriage, the accused persons started torturing the victim physically and mentally in connection with dowry demand. As such, the informant gave Rs.20,000/- to Rs.30,000/- (Rupees Twenty Thousand to Thirty Thousand only) to the accused No.1. However, about 3 (three) days prior to the filing of the FIR, the accused persons again tortured the victim by demanding dowry and threatened to kill her. Hence, the case.

2. One receipt of the ejahar, Jagiroad P.S. Case No. 314/17 u/s 498(A)/506 of the IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused person Md. Habijul Hoque u/s 498(A) of the IPC.

3. In pursuant to the court-process, the accused person appeared before the court. Copies of relevant documents were furnished to the accused person u/s 207 of Cr. P.C. After hearing the learned counsels for both the sides and on finding sufficient prima facie materials to presume that the accused person had committed offence punishable u/s 498(A) of IPC, charge under the said section was framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. In support of its case, the prosecution examined only 2 (two) witnesses. In view of the evidence recorded, the Ld. APP verbally submitted to close PWs as the prosecution declined to adduce further evidence. After closure of prosecution evidence, statement U/S 313 of Cr.P.C. has been dispensed with as found not necessary. Heard the arguments put forward by the learned Counsels for both the sides as well as gone through the evidences available on record.

5. **Point for determination:**

(I) Whether the accused person, being the husband of the victim Musstt. Anjuma Begum, subjected her to cruelty, and hence committed an offence u/s 498(A) IPC?

Discussion, Decision and Reasons thereof:-

6. In this case, the prosecution examined only 2 (two) witnesses. The informant Md. Ruhul Amin was examined as PW-1 and the victim Musstt. Anjuma Begum was examined as PW-2 to prove the charge against the accused person.

7. Before going to decide the points for determination, let me describe the evidence in brief. *In his examination-in-chief* PW-1/informant, Md. Ruhul Amin, deposed that he is the informant and the accused person standing on the dock is his the husband of his sister. His sister/victim Musstt. Anjuma Begum got married to the accused person about 5 (five) years priors to the date of his deposition. He further deposed that he had filed this case about 2 (two) years prior to the date of his deposition. On the date of the incident the victim had a verbal altercation with the accused person over some family matters and PW-1 filed the instant case in that misunderstanding.

8. *During his cross examination*, PW-1 stated he does not have any objection if the accused person is acquitted.

9. *In her examination-in-chief* PW-2/victim, Musstt. Anjuma Begum, deposed that the informant is her elder brother and the accused person standing on the dock is her husband. She got married to the accused person about 5 (five) years priors to the date of her deposition. She further deposed that the informant had filed this case about 2 (two) years prior to the date of her deposition. On the date of the incident the victim had a verbal altercation with the accused person over some family matters and the informant filed the instant case in that misunderstanding.

10. *During her cross examination*, PW-2 stated she does not have any objection if the accused person is acquitted.

11. On perusal of the evidences recorded by the prosecution side, it appears that the PW-1/informant and the PW-2/victim are not willing to proceed with the case further and they stated that the case was filed out of some misunderstanding. Now, they do not have any objection if the accused person is acquitted.

12. In view of the evidence on record, the prosecution side declined to adduce further evidence. This being so there is nothing in the evidence of prosecution

warranting conviction of the accused person u/s 498(A) IPC as the evidence of the prosecution witness is found to be not acceptable and reliable.

13. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 498(A) IPC against the accused person beyond reasonable doubt. Accordingly, the accused person is found not guilty of the offence charged against him and is acquitted.

ORDER

1. In the light of the above decision, the accused person is acquitted of the charge under section 498(A), IPC and set at liberty forthwith.
2. The bail bond of the accused person is extended for a period of 6(six) months as per section 437-A, CrPC.
3. Given under my hand & seal of this Court and delivered in the open Court on this 30th day of November, 2019.

Dictated and corrected by me

(Miss. Anamika Barman)

JMFC, Morigaon

(ANAMIKA BARMAN)

Judicial Magistrate First Class

Morigaon, Assam

APPENDIX

PROSECUTION WITNESSES:

1. P.W.-1, MD. RUHUL AMIN.
2. P.W.-2, MUSST. ANJUMA BEGUM.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

**(ANAMIKA BARMAN)
JMFC, MORIGAON
ASSAM**