

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.2158/2016

State

Vs.

**Md. Ramjan Ali
Son of Late Hussain Ali
Resident of village- Uttam Jaribar
P.S.-Bhuragaon
District- Morigaon, Assam**

Present: Sri N.K. Das, AJS
Chief Judicial Magistrate, Morigaon

For the state: Mrs. A. Kakati, Addl. P.P.

For the defense: Md. B.H. Talukdar, Advocate

Charge framed: u/s 498A of IPC

Evidence recorded on: 5-11-2019

Argument heard on: 5-11-2019

Judgment delivered on: 6-11-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt. Afia Khatun lodged an ejahar in the Bhuragaon police station against the accused persons namely Md. Ramjan Ali, Md. Fakaruddin, Musstt. Jayeda Khatun and Musstt. Jamila Khatun alleging therein that accused Md. Ramjan Ali is her husband and remaining accused persons are relatives of her husband. Her husband fathered three daughters of aged 18, 13 and 4 years with her. For a long time her husband has been subjecting her and her three daughters to harassment in various ways and also deprived them of food, proper maintenance and kept them starved. The informant temporarily resided at Islam patty of Nagaon town in connection with her livelihood and while she was so residing, her husband, around 15 days prior to lodging of the ejahar, borrowed money amounting to approximately

Rs.50,000/- from some of the residents of Islam patty and returned to his own house spitefully placing the informant and her daughter in great difficulty. On 30-8-2016, having no other alternative, the informant along with her four year old daughter came to the house of the accused persons. However, when she entered on to the courtyard of the house of the accused persons, her husband, with the assistance of other accused persons, hurled obscene abuses at her, restrained her and inflicted fist blows, kicks etc. on her, pulled her hair and caused injuries to her and also intimidated her. The informant faced great difficulty along with her three daughters due to the fact that her husband owed money to others. There was delay in lodging the ejahar as she was waiting for an amicable settlement of the matter.

2. The ejahar was received in the Bhuragaon police station on 2.9.2016 and a Bhuragaon police station case no.131/2016 under section 498A of IPC was registered and one assistant sub inspector of police Sri Kuladhar Nath was assigned to take preliminary steps and the then sub inspector of police Sri Bhupen Kalita, who was the Officer in charge of Bhuragaon police station, decided to complete the investigation himself. On completion of investigation, police submitted charge sheet against the accused Md. Ramjan Ali under section 498A of IPC.

3. On appearance before court, copies of all relevant documents were furnished to the accused person under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offence under section 498A IPC being found against the above mentioned accused person, formal charge under section 498A IPC was framed, which was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 1 (one) witness namely Musstt. Afia Khatun, as PW-1, who is the informant cum alleged victim of the case. The ejahar is exhibited as exhibit-1 and the informant put her thumb impression on the ejahar. Examination of the accused person under section 313 CrPC was dispensed with for lack of incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the argument of Mrs. Alakananda Kakati, learned APP as well as the argument of Md. Basirul Hoque Talukdar, learned defence counsel. I have also perused the case record and considered the same. The sole point for determination is as under:

- i. Whether the accused person, being the husband of Musstt. Afia Khatun, on or about 30-8-2016, and also on other dates and time, at village Adhala Bhety, under Bhuragaon police station of Morigaon district, subjected her to cruelty by a willful conduct which was of such a nature as is likely to drive her to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the said woman; or harassed her with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or by any person related to her to meet such demand and thereby committed an offence punishable under section 498A of IPC?

Discussion of evidence, decision and reasons therefor:

6. The informant cum alleged victim, as PW-1, in her deposition has not supported her own case and did not implicate the accused with the alleged offence. The PW-1 deposed that that matter has already been amicably settled between them at the intervention of the local villagers. According to the PW-1, the case was filed due to misunderstanding and as such, she no longer wants to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of the witness against the accused person to implicate him with the alleged offence. The key witness, who is the informant cum alleged victim of the case, did not implicate the accused person with the alleged offence. There is no mention of any torture or harassment in the evidence of the witness. In view of the deposition of the witness, the prosecution side did not proceed further to summon and examine the remaining witnesses as their evidence is not likely to improve the prosecution case and closed the prosecution evidence and perhaps rightly so.

8. For the aforesaid reasons and discussion the sole point for determination is answered in the negative.

9. The prosecution has failed to prove the case against the accused person. As such, the accused person is found not guilty and accordingly acquitted of offence under section 498A IPC alleged against him. He be set at liberty forthwith. His bail bond shall remain in force for six months from today in view of section 437A of CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 6th day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Musstt Afia Khatun

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon