

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.2568/2016

State

Vs.

**Md. Nurul Huda
Son of Md. Ahed Ali
Resident of village- Gagalmari Ashigar
P.S.- Mayong
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. H. Rahman, Advocate

Charge framed: u/s 498A of IPC
Evidence recorded on: 25-11-2019
Argument heard on: 25-11-2019
Judgment delivered on: 25-11-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt. Najima Khatun, lodged a complaint in the court of Chief Judicial Magistrate, Morigaon against the accused persons namely Md. Nurul Huda, Md. Ahed Ali, Md. Muntaj Ali and Md. Khairul Islam alleging therein that the complainant and the accused persons reside within the jurisdiction of the said court. Accused Md. Nurul Huda is the husband of the complainant and the remaining accused persons are family members of her husband. Her marriage was solemnized with the accused Md. Nurul Huda nine years prior to filing of the complainant, as per Islamic rites, on fixing Mohr amount of Rs.1,00,000/-. At the time of the marriage Rs.50,000/-, in cash, and a pregnant cow was also given to her husband. Out of the wedlock two children were born, who were named Musstt. Narjia Parbin and Musstt. Musfira Parbin, who were aged about five years and nine months, respectively, at the time of filing of the complaint.

2. After five years of the marriage, her husband brought Rs.50,000/-from her father in order to start a business. When the complainant was pregnant with her second child, her husband, at the instigation of other accused persons and by hatching a conspiracy in order to marry another woman, demanded Rs.1,00,000/-, in cash, as dowry from her. On her failure to bring the said amount from her poor father, the accused persons, together, subjected her to physical and mental harassment, day and night, and also deprived her of food and forced her to remain outside the house at night and did not allow her to sleep on her bed. In addition to the same, they also beat her, tried to kill her by pouring kerosene oil on her or by strangulating her. Though she went on tolerating all such harassment considering the wellbeing of her two children; however, the accused persons did not relent. On 5-9-2016 they beat her mercilessly and drove her out of the matrimonial house when she was carrying pregnancy. Thereafter, another woman was brought as the second wife of her husband. There was some delay in lodging the ejarah as they promised that the complainant would be taken back to the house of the accused persons for which she was waiting for the same.

3. The said complaint was forwarded to the Officer-in-Charge of Mayong police station, as per prayer of the complainant, for registration of a case, for investigation and for submission of report under section 173 CrPC. Accordingly, the complaint was received in the Mayong police station on 6-10-2016 and a Mayong police station case No.188 /2016 under sections 498A/307/34 IPC was registered and one assistant sub inspector of police Md. Nuruddin Ali was assigned to take up the preliminary steps of the investigation and sub inspector of police Sri Netra Kamal Saikia, who was the Officer-in-Charge of the said police station, decided to complete the investigation himself. On completion of investigation police submitted charge sheet against the accused Md. Nurul Huda under section 498A/494 IPC.

4. 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 accused Md. Nurul Huda, formal charge under section 498A IPC was framed, which was read over and explained to the aforesaid accused to which he pleaded not guilty and claimed to be tried.

5. Prosecution in support of its case examined 1 (one) witness namely Musstt Najima Khatun, as PW-1, who is the informant as well as alleged victim of the case. The ejahar is exhibited as exhibit-1 and the complainant 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.

6. I have heard the argument of Mrs. Alakananda Kakati, learned APP as well as the argument of Md. Hafijur Rahman, 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 Najima Khatun, on or about 5-9-2015, and also on other dates and time, at village Gagalmari Asigarh, under Mayong 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:

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

8. It is seen that there is absolutely nothing on record against the accused person to implicate him with the alleged offence. The key witness 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.

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

10. 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.

11. The judgment is pronounced in open court and given under my hand and seal on this 25th 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. Najima Khatun
- (F) DEFENCE WITNESSES**
None
- (G) COURT WITNESSES**
None

Chief Judicial Magistrate, Morigaon