

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM**

**G.R. CASE NO.3032/2016**

**State**

**Vs.**

**Md. Sahabul Islam  
Son of Md. Yunus Ali  
Resident of village- Karatipam Belowguri  
P.S.- Morigaon  
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: Mr. P.K. Saha, Advocate

Charge framed: u/s 498A of IPC  
Evidence recorded on: 18-11-2019  
Argument heard on: 18-11-2019  
Judgment delivered on: 18-11-2019

**JUDGMENT**

**1.** The prosecution case in brief is that one Musst Nazbina Khatun, lodged a complaint in the court of Chief Judicial Magistrate, Morigaon against the accused persons namely Md. Sahabul Islam, Md. Yunus Ali, Musstt. Sahera Khatun, Md. Nazrul Islam and Md. A. Salam alleging therein that Md. Sahabul Islam is her husband and the remaining accused persons are family members of her husband. Her marriage was solemnized with the accused Md. Sahabul Islam around three years prior to filing of the complaint, as per Islamic rites, on fixing Mohr amount of Rs.80,000/-. Out of the wedlock a boy was born, who was named Md. Abu Huraira and who was aged about one month at the time of filing of the complaint. At the time of her marriage, complete furniture and Rs.20,000/-, in cash, was given as dowry to her husband Md. Sahabul Islam.

**2.** While she was leading conjugal life with her husband, her husband, at the instruction of the remaining accused persons, demanded Rs.50,000/- and coerced

the complainant to bring the said amount from her father and in connection with the said demand, beat her and deprived her of food. When the complainant informed her mother regarding demand of the accused persons, her mother paid Rs.50,000/- to her husband. Thereafter, she spent 2/4 days well, after which, the accused persons came to know that the complainant was carrying one month pregnancy. Thereafter, they, in order to cause miscarriage to her, caused her to consume tablet after which she suffered miscarriage and due to the miscarriage, she fell ill. Her mother provided medical treatment to her for which she recovered. Thereafter, when the complainant again got pregnant, the accused persons tried to cause miscarriage to her. However, they failed in their attempt. Thereafter, the accused persons again demanded dowry and beat her and subjected her to physical and mental harassment. Though the complainant went on tolerating all such harassment and led the conjugal life with the accused; however, on 18-11-2016, at about 7.00 p.m. the accused persons demanded Rs.20,000/- and caused her to bring the said amount from her father. In connection with the said demand they beat her with iron rod and thereby caused severe injuries on her person. Thereafter, the accused persons confined her in a room and on 19-11-2016 at about 3.00 a.m., the accused persons conspired to kill the complainant and entered into the room where she was confined. However, the complainant fled from the room through another door and took shelter in the house of one Md. Abdul Mojid, who was a neighbour. The accused persons followed her and went to the house of Md. Abdul Mojid, caught hold of her hair, threw her on the ground, inflicted kicks, fist blows etc. on her causing internal injuries. She was saved by Md. Abdul Mojid.

**3.** The said complaint was forwarded to the Officer-in-Charge of Morigaon 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 Morigaon police station on 19-11-2016 and a Morigaon police station case No.391/2016 under sections 120(B)/498A/313/323/34 IPC was registered and one sub inspector of police Sri Anjan Saikia was assigned to investigate the case by the Officer-in-Charge of the

said police station. On completion of investigation police submitted charge sheet against the accused Md. Sahabul Islam under section 498A 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. Sahabul Islam, formal charge under section 498A IPC was framed, which was read over and explained to the accused Md. Sahabul Islam to which he pleaded not guilty and claimed to be tried.

**5.** Prosecution in support of its case examined 1 (one) witness namely Musstt Nazbina 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 signatures of the informant are proved as exhibit-1(1) and 1(2). 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 Mr. Prashanna Kr. Saha, 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 Nazbina Khatun, on or about 18-11-2016 at about 7.00 p.m. and 19-11-2016 at about 3.00 a.m. and also on other dates and time, at village Karatipam, under Morigaon 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 she obtained talak from the accused Md. Sahabul Islam as per amicable settlement arrived at by them at the intervention of local villagers. According to the said witness, she married one Md. Abu Nasar and at present she has been leading conjugal life with him. As such, she no longer wants to proceed with the case. According to her the case was filed due to misunderstanding.

**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 18<sup>th</sup> day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

## **APPENDIX**

- (A) PROSECUTION EXHIBITS:**  
Ext.-1: Ejahar  
Ext.-1 (1) & 1 (2): Signatures of Nazbina Khatun
- (B) DEFENCE EXHIBITS**  
None
- (C) EXHIBITS PRODUCED BY WITNESSES**  
None
- (D) COURT EXHIBITS**  
None
- (E) PROSECUTION WITNESSES**  
P.W.-1: Musstt. Nazbina Khatun
- (F) DEFENCE WITNESSES**  
None
- (G) COURT WITNESSES**  
None

Chief Judicial Magistrate, Morigaon