

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

PRC Case No. 387/2019

U/S 498(A) IPC

STATE OF ASSAM

-VS-

MD. NIZAMUDDIN.

S/O MD. HUSSAIN ALI.

R/O PUB-DATIALBORI, P/S BHELOWGURI.

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. A. U. SIDDIQUE, LEARNED ADVOCATE.

EVIDENCE RECORDED ON: - 14.11.2019.

ARGUMENT HEARD ON: - 14.11.2019.

JUDGMENT DELIVERED ON: - 14.11.2019.

JUDGMENT

1. The brief of the prosecution story is that one Musstt. Rahima Khatun filed an FIR before the Officer-in-Charge, Bhelowguri P.S. on 14.05.18 alleging inter-alia that about 2 (two) years prior to the filing of this case, she got married to the accused Md.

Nizamuddin. At the time of her marriage they had given cash amount of Rs.25,000/- (Rupees Twenty Five Thousand only), wooden furniture worth Rs.30,000/- (Rupees Thirty Thousand only) and a cycle worth Rs.4,000/- (Rupees Four Thousand only) her husband. However, after her marriage, her husband, as per the advice of the other accused persons, namely, Md. Sahabuddin, Musstt. Alifa Khatun and Musstt. Amirjan Khatun, started torturing the informant both physically and mentally in connection with dowry demand. The accused persons also drove her out of her matrimonial house several times but each time they would again bring her back after amicably settling the matter. On 23.04.18, at about 08:00 am, the accused Md. Nizamuddin assaulted the informant with the chain of his cycle by demanding money from her and also drove her out of his house. Since then, the informant has been living in her parental house. Hence, the case.

2. One receipt of the ejahar, Bhelowguri P.S. Case No. 28/18 u/s 498(A) of the IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused person Md. Nizamuddin 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 1 (one) witness. 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 informant/victim Musstt. Rahima Khatun, 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 1 (one) witness. The informant/victim Musstt. Rahima Khatun was examined as PW-1 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 her examination-in-chief* PW-1/informant/victim, Musstt. Rahima Khatun, deposed that she is the informant and the accused person standing on the dock is her husband. She got married to the accused person about 3 (three) years prior to the date of her deposition and she also has a daughter aged one and half years with the accused person. She further deposed she had filed the instant case about 2 (two) years prior to the date of her deposition. After her marriage she had a verbal altercation with the accused person over some family matters and she filed the instant case in that misunderstanding. At present she is living peacefully with her husband in her matrimonial house.

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

9. On perusal of the evidences recorded by the prosecution side, it appears that the PW-1/informant/victim is not willing to proceed with the case further and she stated that the case was filed out of some misunderstanding. At present she is living peacefully with her husband in her matrimonial house and she does not have any objection if the accused person is acquitted.

10. 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.

11. 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 14th 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, MUSSTT. RAHIMA KHATUN.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

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