

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

PRC Case No. 1077/18

U/S 498(A)/34 IPC

STATE OF ASSAM

-VS-

- 1. MD. JAKIR HUSSAIN, S/O LT. HASEN ALI.**
 - 2. MD. AMIR HUSSAIN, S/O LT. HASEN ALI.**
 - 3. MUSST. SAFIYA KHATUN, W/O MD. AMIR HUSSAIN.**
- ALL R/O PATUWAKATA, P/S LAHARIGHAT.**
DIST. MORIGAON, ASSAM.

..... ACCUSED PERSONS.

PRESENT: - SMTI. 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: - MRS. N. BEGUM, LEARNED ADVOCATE.
EVIDENCE RECORDED ON: - 16.11.2019.
ARGUMENT HEARD ON: - 16.11.2019.
JUDGMENT DELIVERED ON: - 16.11.2019.

JUDGMENT

1. The brief of the prosecution story is that one Musstt. Rashida Begum filed an FIR before the Officer-in-Charge, Borchala Police Outpost on 21.06.2018 alleging inter-alia that she got married to the accused person Md. Jakir Hussain about 4 (four) years prior to the filing of the FIR as per Islamic rites and rituals and she also has a child with him. At the time of her marriage, her parents had given a cash amount of Rs.30,000/- (Rupees Thirty Thousand only) her husband as demanded by him. However, after her marriage her husband started to torture her both physically and mentally by demanding more dowry from her. Finally, on 01.06.2018, at about 04:00 pm, when the informant protested against such dowry demand, her husband along with the other accused persons, namely, Md. Amir Hussain, Md. Amir Ali and Musstt. Sufiya Khatun assaulted the informant and drove her out of her matrimonial house. Hence, the case.

2. On receipt of the ejahar, the Borchala Police Outpost registered the complaint as GDE No. 340 dated 21.06.18 and forwarded the same to the Laharighat P.S. On receipt of the ejahar, Laharighat P.S. registered the case as Laharighat P.S. case No. 163/18 u/s 498(A) of the IPC and the case was investigated into. On completion of the investigation, I/O filed charge-sheet against the accused persons, namely, Md. Jakir Hussain, Md. Amir Hussain and Musstt. Safiya Khatun u/s 498(A) of the IPC.

3. In pursuant to the court-process, the accused persons appeared before the Court. Copies of relevant documents were furnished to the accused persons 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 persons had committed offence punishable u/s 498(A)/34 of the IPC, charge under the said section was framed, read over and explained to the accused persons to which they 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 persons being the husband and the relatives of the husband of the informant/victim Musstt. Rashida Begum, in furtherance of their common intention, subjected her to cruelty, and hence committed an offence u/s 498(A)/34 IPC?

Discussion, Decision and Reasons thereof:-

6. In this case, the prosecution examined only 1 (one) witness. The informant/victim Musstt. Rashida Begum 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. Rashida Begum, deposed that she is the informant and she knows the accused persons. The accused Md. Jakir Hussain is her husband and the other two accused persons are her in-laws. PW-1 got married to the accused Md. Jakir Hussain about 5 (five) years prior to the date of her deposition and she also has a two year old minor son with him. She further deposed that she had filed the instant case about 1 1/2 (one and half) years ago. On the date of the incident she had a verbal altercation with the accused persons over some family matters and she filed the instant case in that misunderstanding. However, she has been living with her husband in her matrimonial house for 7 (seven) months now.

8. *During her cross examination*, PW-1 stated that 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 misunderstandings. At present PW-1/victim is living

with her husband peacefully 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 persons u/s 498(A)/34 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)/34 IPC against the accused persons beyond reasonable doubt. Accordingly, the accused persons are found not guilty of the offence charged against them and they are acquitted.

ORDER

1. In the light of the above decision, the accused persons are acquitted of the charge under section 498(A)/34, IPC and set at liberty forthwith.
2. The bail bonds of the accused persons are extended for a period of 6(six) months as per section 437-A, CrPC.
3. The judgment is delivered in the open Court in presence of the accused persons and their learned Counsel.
4. Given under my hand & seal of this Court and delivered in the open Court on this 16th 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, MUSST. RASHIDA BEGUM.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

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