

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.1655/2017

State

Vs.

**Md. Sanidul Islam
Son of Md. Muslem Uddin
Resident of village- Chatiantoli
P.S.-Laharighat
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. F. Ahmed, Advocate

Charge framed: u/s 498A of IPC on 4-9-2018

Evidence recorded on: 24-1-2020

Argument heard on: 24-1-2020

Judgment delivered on: 24-1-2020

JUDGMENT

1. The prosecution case in brief is that one Musstt. Hafiza Khatun lodged an ejahar in the Laharighat police station against the accused persons namely Md. Sanidul Islam, Md. Muslem Uddin, Musstt. Farjina Khatun, Musstt. Safia Khatun and Md. Abdul Mojid alleging therein that on 30-6-2017 at about 7.00 p.m., at the instigation of accused Md. Sanidul Islam, the remaining accused persons strangled the neck of the informant in order to kill her. Thereafter, they confined her inside their house, inflicted fist blows, blows with elbow, kicks and blows with bamboo stick causing severe injuries on her person. On 1-7-2017 at about 7.00 a.m., they again beat her and drove her out of the matrimonial house. At that time, she was carrying nine months pregnancy. The informant also expressed her apprehension that her child in the womb might have died.

2. The ejahar was received in the Laharighat police station on 5-7-2017 and a Laharighat police station case no.217/2017 under sections 120B/307/448/325 IPC was registered and one assistant sub inspector of police Sri Paban Deka was assigned to take up the preliminary steps of the investigation and the sub inspector of police Sri Prasanjit Das, who was the Officer-in-Charge of the Laharighat police station, decided to complete the investigation himself. On completion of investigation, police submitted charge sheet against the accused Md. Sanidul Islam under section 498A of IPC showing him as absconder.

3. On appearance before court, copies of all relevant documents were furnished to the accused Md. Sanidul Islam 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. Hafiza Khatun, as PW-1, who is the informant cum alleged victim of the case. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). 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. Faruque Ahmed, 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. Hafiza Khatun, on or about 30-6-2017 at about 7.00 p.m. and also on or about 1-7-2017 at about 7.00 a.m., at village Chatiantoli, Ward No.7, under Laharighat 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 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 Musstt. Hafiza Khatun, 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 the matter has already been amicably settled between them at the intervention of their family members. According to PW-1, the case was lodged 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 24th day of January, 2020 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

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

Chief Judicial Magistrate, Morigaon