

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

PRC Case No. 1557/2019

U/S 498(A) IPC

STATE OF ASSAM

-VS-

MD. BABU ALI.

S/O MD. FAIJUL HOQUE.

R/O PATUAKATA, P/S MIKIRBHETA.

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. SHANEWAS, LEARNED ADVOCATE.

EVIDENCE RECORDED ON: -

04.01.2020 AND 09.01.2020.

ARGUMENT HEARD ON: -

09.01.2020.

JUDGMENT DELIVERED ON: -

09.01.2020.

JUDGMENT

1. The brief of the prosecution story is that one Musstt. Ile Begum filed an FIR before the Officer-in-Charge, Mikirbheta P.S. on 08.02.19 alleging inter-alia that her daughter/victim Musstt. Moni Begum had eloped with the accused Md. Babu Ali and

got married to him on 28.11.18. However, after the marriage, the accused Md. Babu Ali, as per the instructions of his family members, namely, Md. Faijul Ali and Musstt. Fatema Begum, started torturing the victim both physically and mentally by demanding money and furniture from her as dowry. When the victim conceived, the accused persons tried to abort the child but the victim did not agree to it. As such, on 27.01.19, the accused persons assaulted the victim and forcefully took her to Morigaon Civil Hospital for causing her miscarriage. When the informant got to know about the same, she filed a case at Jaluguti outpost but on 31.01.19 the accused persons amicably settled the matter and took back the victim to their house. However, the accused persons again assaulted the victim and also forced her to take medicines. But when the victim refused to take those medicines, the accused persons on 07.02.19 assaulted the victim and even tried to kill her. However, the victim somehow managed to escape from the accused persons with the help of Md. Azad Ali and went to his house. Hence, this case.

2. One receipt of the ejahar, Mikirbheta P.S. Case No. 39/19 u/s 498(A)/325/307/506/34 of the IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused person Md. Babu Ali 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 2 (two) witnesses. 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 victim Musstt. Moni Begum, 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 2 (two) witnesses. The victim Musstt. Moni Begum was examined as PW-1 and the informant Musstt. Ile Begum was examined as PW-2 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/victim, Musstt. Moni Begum, deposed that the informant is her mother and the accused person standing on the dock was her husband. She got married to the accused person about 6-7 (six to seven) months prior to the date of her deposition. She further deposed that after her marriage, she had stayed in the house of the accused person for 3 (three) months after which the informant filed this case. On the date of the incident she had a verbal altercation with the accused person over some family matters for which the informant filed this case.

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

9. *In her examination-in-chief* PW-2/informant, Musstt. Ile Begum, deposed that she is the informant and the accused person standing on the dock was her son-in-law. Her daughter got married to the accused person about 7-8 (seven to eight) months prior to the date of her deposition. She further deposed that after the marriage, her daughter had stayed in the house of the accused person for 4-5 (four to five) months. On the date of the incident her daughter had a verbal altercation with the accused person over some family matters and the informant filed the instant case in that misunderstanding. fe.

10. *During her cross examination*, PW-2 stated she does not have any objection if the accused person is acquitted.

11. On perusal of the evidences recorded by the prosecution side, it appears that the PW-1/victim and the PW-2/informant are not willing to proceed with the case further and they stated that the case was filed out of some misunderstanding. Now, they do not have any objection if the accused person is acquitted.

12. 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.

13. 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 9th day of January, 2020.

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. MONI BEGUM.**
- 2. P.W.-2, MUSSTT. ILE BEGUM.**

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

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