

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

PRC Case No.1617/2019

U/S 498(A) IPC

STATE OF ASSAM

-VS-

MD. JIABUR RAHMAN.

S/O MD. JAHUR ALI.

R/O PUB BORKHABAL, P/S LAHARIGHAT.

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. H. RASHID, LEARNED ADVOCATE.

EVIDENCE RECORDED ON: - 10.01.2020.

ARGUMENT HEARD ON: - 10.01.2020.

JUDGMENT DELIVERED ON: - 10.01.2020.

JUDGMENT

1. The brief of the prosecution story is that one Musstt. Ume Kulsum filed an FIR before the Officer-in-Charge, Laharighat P.S. on 10.03.2019 alleging inter-alia that the accused Md. Jiabur Rahman is her husband and the remaining accused persons,

namely, Musstt. Roushanara Begum, Md. Jahur Ali, Musstt. Joshnara Begum, Md. Amsor Ali and Md. Abbas Ali are her in-laws. On 09.03.2019, at about 02:00 pm, the informant returned from her parental house without bringing any money from there. As such, the accused Md. Jiabur Rahman, Musstt. Roushanara Begum and Md. Jahur Ali called the accused Md. Amsor Ali and Md. Abbas Ali to their house for dinner and from 12:30 am to 01:00 am, all the accused persons confined her inside the house. Thereafter, the accused Md. Jiabur Rahman physically tortured the informant and he even tried to kill her by strangulating her neck. He also tried to set fire to her by pouring kerosene on her body. However, the informant somehow managed to escape from the accused persons. Thereafter, the informant took shelter in her parental house. Hence, this case.

2. On receipt of the ejahar, Laharighat P.S. Case No. 86/19 u/s 498(A)/34 of the IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused person Md. Jiabur Rahman 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 victim Musstt. Ume Kulsum, 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. Ume Kulsum 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. Ume Kulsum, 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 1 (one) year 2 (two) months prior to the date of her deposition. She further deposed that she filed this case in the month of March of the year 2019. On the date of the incident she had a verbal altercation with the accused person over some family matters and she filed the instant case in that misunderstanding. However, at present she is living peacefully with the accused person in his 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. Now, she is living peacefully with the accused person in his 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 10th 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. UME KULSUM.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

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