

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

MORIGAON::::::::::ASSAM.

GR Case No. 594 of 2015

U/S 498(A) of IPC.

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: MD. AFAJUL ISLAM

Present : Smti. S. Acharyya, AJS,
Addl. Chief Judicial Magistrate,
Morigaon.

APPEARANCE:

For the State : Mr. P. Hazarika, Ld. Addl. Public Prosecutor.
For the accused person : Mr. A. K. Amin, Learned Advocate.
Charge framed on : 28.07.2016.
Evidence recorded on : 25.11.2016, 05.12.2017, 26.02.2018, 20.06.2019
& 30.10.2019.
Argument heard on : 30.10.2019.
Judgment delivered on : 30.10.2019.

J U D G M E N T

1. The prosecution case in brief is that the informant Musstt. Rahima Khatun lodged an ejahar stating inter alia that she was married to the accused person Md. Afajul Islam at about 4 years back. That accused person has been inflicting physical and mental torture upon her demanding money. That her husband brought Rs. 70,000/- from her father and finally on 12.03.2015, she was ousted from her matrimonial house after being assaulted. Hence the case.

2. On receipt of the 'ejahar' at the police station, the same was registered as Mikirbheta P.S. Case No. 94/2015 and the matter was

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investigated upon.

3. After completion of investigation police filed a charge-sheet against the accused person Md. Afajul Islam under section 498(A) IPC.

4. On appearance of the accused person, he was allowed to go on bail. Relevant documents of the case were furnished to him. Upon perusal of materials on record and after hearing both sides, charge under section 498(A) IPC has been framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

5. The prosecution in support of its case examined four witnesses. Whereas, the defence side has not examined any witness in support of its defence.

6. The examination under section 313 Cr.P.C. of the accused person is recorded. He denied all the allegations.

7. I have heard the argument advanced by the learned counsels for both sides.

8. Upon hearing and on perusal of the record I have framed the following point for determination:

- (i) Whether the accused person, being the husband of Musstt. Rahima Khatun at Madyam Kalikajari village under PS Mikirbheta and Dist.-Morigaon subjected her to cruelty since her marriage by inflicting physical and mental torture upon her demanding cash amount and thereby committed an offense punishable U/S 498(A) of IPC?

DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:

9. PW1 Musstt. Rahima Khatun, who is the informant cum victim inter alia deposed that she got married with accused person on 24.1.2010. After 6 months of marriage, her husband started to inflict physical and mental torture upon her demanding money. That he abused her for having black complexion. That she paid Rs. 70,000/- to the accused from her father. But the accused again demanded money from her and assaulted her. That accused assaulted her with sandal. That he drove her out by catching her hair. That accused kept her child. That she has been staying at her parents'

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house for about 2 years. She exhibited the ejahar as Ext.1 and her signatures as Ext.1(1) and her statement u/s 164 Cr.P.C. as Ext.2 and her signature as Ext.2(1) & 2(2). In her cross examination, PW1 inter alia answered that she did not inform about the incident to gaonburah. She denied the suggestions put to her by the Ld. defense counsel.

10. PW2 Md. Abdul Mutaleb inter alia deposed that after 6 months of marriage, the accused started to torture Rahima. That Rahima told that her husband demanded money. That after 1 year of marriage, her father paid Rs. 70,000/- to the accused by selling his land. But later, he assaulted and drove her out. That Rahima came to the house of PW2 and she returned to her husband's house after amicable settlement. That in the year 2015, her husband assaulter her and drove her out. That he kept her child. That accused used to demand money stating that he does not like Rahima. That accused stated that Rahima is of black complexion. In his cross examination, PW2 denied the suggestions put to him by the Ld. defense counsel.

11. PW3 Md. Ajijul Hoque inter alia deposed that he knows nothing about the case and informant is now staying with the accused.

12. PW4 Md. Idrish Ali, who is the father of the informant inter alia deposed that the informant filed the case due to misunderstanding and domestic quarrel and the dispute has been amicably settled and now the informant is staying with her husband.

13. I have carefully gone through the evidence on record. From the evidence of PW1 and PW2, it appears that accused used to demand money from PW1 and tortured her and finally drove her out from her matrimonial house. It also appears from their evidence that father of PW1 paid Rs. 70,000/- to the accused. But from the evidence of PW4, who is the father of the informant, it appears that informant filed the case due to misunderstanding and domestic quarrel. He did not say that he paid Rs. 70,000/- to the accused. Thus there is contradiction between evidence of PW1, who is the informant-cum-victim and evidence of PW4, who is the father of the PW1. Hence I am of the opinion that prosecution has failed to prove the guilt of the accused person beyond all reasonable doubt.

14. In view of above discussion, the accused Md. Afajul Islam is

acquitted of charge U/S 498(A) of IPC and set at liberty forthwith.

15. Bail bond shall remain in force for next six months.

16. The case is disposed of on contest.

17. Given under my hand and seal, today, the 30th day of October, 2019.

Dictated and corrected
by me.

S. ACHARYYA
Addl Chief Judicial Magistrate
Morigaon.

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Addl Chief Judicial Magistrate
Morigaon.

Dictation taken and
transcribed be me.

Computer Typist.

APPENDIX:

Prosecution witness:

PW1- Musstt. Rahima Khatun

PW2- Md. Abdul Mutaleb

PW3- Md. Ajijul Hoque

PW4- Md. Idrish Ali

Prosecution exhibits:

Ext.1- Ejahar

Ext.2- Statement u/s 164 Cr.P.C. of the victim.

Defence witness:

Nil.

Defence exhibit:

Nil.

Dictated and corrected
by me.

S. ACHARYYA
Addl Chief Judicial Magistrate
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