

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE (S) AT
MORIGAON**

G.R. Case No.855/17

Under section- 498(A) of the Indian Penal Code

State of Assam

Versus

Md. Maharuddin

S/O- Md. Mannas Ali

Village: Tarajan, P.S- Mikirbheta, Dist. Morigaon, Assam

.....Accused person

Present: Lohit Kumar Sarmah, SDJM(S), Morigaon

For the Prosecution: Ms. B. Devi, APP

For the Defence: Mr. R. Islam, Advocate

Evidence recorded on: 4.10.2019

Argument heard on: 4.10.2019

Judgment delivered on: 4.10.2019

JUDGMENT

1. The informant Musstt. Najima Khatun lodged an ejahar before Mikirbheta PS through Court on 28.3.2017. The brief of the complainant's case is that the accused is her husband. At present the informant is a mother of six babies. After few years of their marriage the accused had been torturing the informant physically and mentally in demands of dowry cash. With no options left her father paid Rs.35000/- to the accused on 31.12.2011. After about one and a half month later the father of the informant again paid Rs.25000/- as demanded by the accused to construct house. The accused again demanded Rs.100000/- of which Rs.89000/- was provided to him by the father of the informant. After which the accused contracted second marriage with Iyasmina and left for Dimapur keeping Iyasmina along with the informant at Tarajan. On 20.3.2017 the accused caused the informant grievous injury by beating her saying that her dowry articles are not of good quality and then drove her out of her matrimonial house. Then the informant had to return to her house with her father in presence of Sukleswar Patar Gaonburha. The accused also snatched away one of the twins' babies to Dimapur. Hence the informant had filed this case.

2. The ejahar was received and registered as Mikirbheta police station case No.110/17 under sections 498(A)/307/34 of the Indian Penal Code R/W section 4 of the Dowry Prohibition Act.
3. **The Investigating Officer after due investigation of the case submitted charge sheet under section 498(A)/494 of the Indian Penal Code against the accused Md. Mahar Uddin.**
4. The copies of the relevant documents were furnished to accused in accordance with section 207 of the Cr.P.C.
5. During trial, formal charge under section 498(A) of the Indian Penal Code was framed which was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
6. The prosecution has examined only one witness i.e. the informant-cum-victim. The examination of the accused person under section 313 Cr.P.C was recorded. The plea of the accused person is in total denial and he has declined to adduce evidence in his defence.
7. I have heard arguments from the learned APP and the learned defence counsel and perused the records of the case in a meticulous manner. The points of determination in the case are:
 - i) Whether the accused being the husband of Musstt. Najima Khatun subjected her to cruelty in demand of dowry cash of Rs.100000/- and kind on 20.3.2017 and on earlier dates and thereby committed offence u/s 498-A IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

8. PW-1 Musstt. Najima Khatun who is the informant-cum-victim deposed that she filed this instant case against her husband. She got married to the accused socially. On the day of incident, PW1 had some verbal altercation with the accused and this case was filed out of misunderstanding. As they started living as husband and wife together hence she does not want to proceed with this case anymore. Ext-1 is the ejahar where she put thumb impression. In cross-examination PW1 stated that she does not have any objection if the accused is acquitted of this case.
9. From the deposition of PW1 it appears that there is nothing incriminating against the accused. PW1 who is the victim herself did not support the case. In her

deposition she stated that now she does not want to proceed with the case and has no objection if the accused person is acquitted of the case. Now she has been living peacefully with the accused as husband and wife. Further PW1 has not at all implicated the accused Md. Mahar Uddin under section 498(A) of the Indian Penal Code.

10. In view of the above it is held that the prosecution has failed to establish the offence u/s 498(A) of the Indian Penal Code against accused. Accordingly accused Md. Mahar Uddin is acquitted of the alleged offence labelled against him and set at liberty forthwith.
11. Bail bond and affidavit submitted by the bailor is extended for a period of six months as per amended Cr.PC.

Given under the hand and seal of this Court on this the 4th day of October, 2019, at Morigaon.

Lohit Kumar Sarmah
SDJM(S), Morigaon, Assam

APPENDIX

Prosecution witnesses:

PW1- Musst. Najima Khatun (informant-cum-victim)

Exhibits for the prosecution:

Ext-1: Ejahar

Defence witness:

Nil

Exhibits for defense:

Nil

Lohit Kumar Sarmah
SDJM(S), Morigaon.