

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.1302/2016

State

Vs.

**Sri Parameswar Deuri
Son of Late Joysingh Deuri
Resident of village- Kholagaon (Nizarapar)
P.S.- Jagiroad,
District- Morigaon, Assam**

Present: Sri N.K. Das, AJS
Chief Judicial Magistrate, Morigaon

For the state: Mrs. A. Kakati, Asstt.P.P.

For the defense: Mr. P. Hazarika, Smti. Jolly Saikia & Musstt. Shajida
Khatun, Advocates

Charge framed: u/s 498A of IPC

Evidence recorded on: 28-3-2019

Argument heard on: 28-3-2019

Judgment delivered on: 28-3-2019

JUDGMENT

1. The prosecution case in brief is that one Smti. Anita Sharai Deuri lodged a complaint in the court of Chief Judicial Magistrate, Morigaon against the accused persons namely Sri Parameswar Deuri, Sri Pranab Deuri and Smti. Ilamoni Deuri alleging therein that the complainant and the accused persons resides within the jurisdiction of this court. Around four years prior to lodging of the case i.e. in the year 2012, the marriage of the complainant was solemnized with the accused Sri Parameswar Deuri and after marriage, both of them started to reside as husband and wife in the house of the husband of the complainant. The father of the complainant gave all the household articles, furniture etc. after arranging them by borrowing from others. Out of the wedlock a daughter was born on 15-8-2013. After the birth of her daughter, the husband of the complainant started to beat her on the slightest of pretext. The accused persons used to verbally abuse the complainant about the furniture and other articles given at the time of her marriage. Her husband also

demanded Rs.50,000/- from the complainant and coerced her to bring the same from her parents. On her failure to bring the said amount from her parents, her husband, after consuming liquor, used to harass her physically and mentally on day and night. On some occasions, the complainant was confined within a room without food. The complainant went on tolerating such harassments considering the future of her conjugal life as well as her daughter. On 29-5-2016, at about 10.00 a.m. in connection with her failure to meet the demand of Rs.50,000/-, the accused persons abused her with obscene language, beat her and drove her out of the matrimonial house after keeping her three year old daughter. At that time the accused persons threatened her that if she ever returns to the matrimonial house or if she ever demands her daughter, she would be killed. Having no other alternative, the complainant returned to the house of her parents.

2. The said complaint was forwarded to the Officer-in-Charge of Jagiroad police station, as per prayer of the complainant, for registration, for investigation and submission of report under section 173 CrPC. Accordingly, the complaint was received in the Jagiroad police station on 3-6-2016 and a Jagiroad police station case No.254/2016 under sections 498A/403/34 of IPC was registered and one sub inspector of police Sri Ramen Bordoloi was assigned to investigate the case. On completion of investigation police submitted charge sheet against the accused Sri Parameswar Deuri under section 498A IPC.

3. On appearance before court copies of all relevant documents were furnished to the accused person 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 Smti. Anita Sharai Deuri, as PW-1, who is the informant cum alleged victim of the case. The ejahar is exhibited as exhibit-1 and the signatures of the informant are proved as exhibit-1(1) and exhibit-1(2). 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 both sides, 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 Smti. Anita Sharai, on or about 29-5-2016, at about 10.00 a.m., also on other dates and time, at village Kholagaon, under Jagiroad 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 is 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 in her deposition as PW-1 has not supported her own case and did not implicate the accused with the offence charged. She deposed that the matter has already been amicably settled between them at the intervention of their family members and the local villagers. The witness has further stated that at present she has been living with her husband i.e. the accused and she no longer wants to proceed with the case. According to her, the case was filed due to misunderstanding.

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 the 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 28th day of March, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1 (1) & 1 (2): Signatures of Smti. Anita Sharai Deuri

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Smti. Anita Sharai Deuri

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon