

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIGAON

G.R Case No: 1671 of 2015

U/s 498-A, IPC

State

Vs

Md. Fakaruddin

.....Accused

Present: A Shravan, A.J.S.

Evidence recorded on : 05.03.2019
Arguments heard on : 05.03.2019
Judgment delivered on : 05.03.2019
For the Prosecution : Assistant Public Prosecutor, Smti. L. Gohain
For the Defence : Learned Counsel Sri Tirbajit Nath

Judgment

1. The case of the prosecution in brief is that the informant, Musstt. Fajila Khatun lodged an *ejahar* stating *inter alia* that she got married with the accused Fakaruddin twelve years back as per Islamic rites and rituals and that she is the mother of three children. Soon after her marriage her husband and the relative of her husband started demanding dowry to be brought from her parental house. However, even after fulfilling the demands of the accused, the accused remarried and started to physically torture the informant. On 18.07.2015 at about 4 p.m. the accused and his relatives assaulted the informant with an iron rod and also tried to burn her by pouring kerosene upon her. Hence, the case.

2. On receipt of the *ejahar*, the Officer in Charge of Lahorighat Police Station registered Lahorighat P.S. Case No-358/15 under sections 498-A, I.P.C. and started investigation. The police after investigation submitted charge sheet against the accused person under sections 498-A, I.P.C.

3. On appearance of the accused person, copies were furnished to him under section 207 Cr.P.C. and after hearing and perusal, formal charges under

sections 498-A, IPC was framed, which was explained to him to which he pleaded not guilty and claimed to be tried.

4. The prosecution side to prove its case examined the as PW-1, Fajila Khatun, the informant/ victim. The statement of the accused person under section 313, Cr.P.C. was recorded. The accused denied the case and declined to adduce evidence. I have heard both the learned Assistant P.P. and the learned counsel for the accused person.

5. **POINTS FOR DETERMINATION:-**

I. Whether the accused person being the husband of the victim subjected her to cruelty and thereby committed an offence u/s 498(A) of I.P.C.?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:-

6. PW 1, Fajila Khatun, the informant/ victim has deposed in her evidence that the instant case is nothing but the outcome of misunderstanding between herself and the accused/ her husband and that presently, both of them are residing together and also blessed with three children out of their wedlock. She further deposed that she has no resentment against the accused person and that she is residing happily with the accused person along with her three children.

7. From the evidence of the prosecution witness, it appears that the informant is not inclined to prosecute the accused person. It has become apparent that there must have been some minor altercation between the informant and the accused person. However, the same appears to have been resolved. Thus, from the little evidence that has been brought before this court in the form of the statements made by the informant, it is seen that no offence has been made out against the accused persons under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused persons of any offence.

8.

ORDER

Considering the discussions made above and after all deliberations, it can be safely presumed that the prosecution has failed to drive home the guilt of the accused persons. Hence, the accused person, Md. Fakaruddin is acquitted of the offence under sections 498-A, of the Indian Penal Code and set at liberty forthwith.

His bail bonds are extended for a period of 6 (Six) months as per Section 437 A, Criminal Procedure Code.

Given in my hand and under the seal of this court on this the 5th day of March, 2019.

Typed by Me:

Ayushree Shravan
Judicial Magistrate First Class, Morigaon

APPENDIX

Prosecution Witnesses :

PW-1: Smt. Fajila Khatun, the informant

Defence Witnesses :

None

Prosecution Exhibits :

None

Defence Exhibits :

None.

Judicial Magistrate First Class
Morigaon, Assam