

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.3160/2017

State

Vs.

**Md. Allal Uddin
Son of Md. Nur Ali
Resident of village- Pavakati
P.S.- Mayong,
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: Md. J.A. Bhutto, Advocate

Charge framed: u/s 498A of IPC
Evidence recorded on: 19-3-2019
Argument heard on: 19-3-2019
Judgment delivered on: 20-3-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt. Rufija Khatun lodged an ejahar in the Mayong police station against the accused Md. Alaluddin, Musstt. Alesa Khatun and Musstt. Sabina Khatun alleging therein that accused Md. Alaluddin married the aforementioned informant around three years ago prior to lodging of the ejahar. Out of the wedlock one child was born. However, for some days prior to lodging of the ejahar, at the instigation of the other two accused persons, her husband subjected her to physical and mental harassment in connection with demands of dowry and on 27-11-2017, drove her out of the matrimonial house along with her child for which she had to take shelter in the house of her parents. Her husband has not inquired about her during her stay in the house of her parents.

2. The said ejahar was received in the Mayong police station on 13-12-2017 and a Mayong police station case No.406/2017 under section 498A IPC was registered and one assistant sub inspector of police Md. Nuruddin Ali was assigned to take up the preliminary steps of the investigation and sub inspector Sri Ramen Bordoloi, who was the Officer-in-Charge of the said police station, decided to complete the investigation himself. On completion of investigation, police submitted charge sheet

against the accused Md. Alaluddin under section 498A IPC, showing the accused as an absconder.

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 Musstt. Rufija Khatun @ Musstt. Rubija Khatun, as PW-1, who is the informant as well as alleged victim of the case. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). 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 Musstt. Rufija Khatun @ Musstt. Rubija Khatun, on or about 27-11-2017, at village Povakati, under Mayong 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 witness in her deposition 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. The alleged victim has stated that at present she has been residing with her husband i.e. the accused. The witness also stated that she no longer wants to proceed with the case and 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 20th day of March, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1 (1): Signature of Musstt. Rufija Khatun @ Musstt. Rubija Khatun

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Musstt. Rufija Khatun @ Musstt. Rubija Khatun

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon