

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIOGAON, ASSAM.**

**PRC Case No. 623/19**

**U/S 498(A) IPC**

**STATE OF ASSAM**

**-VS-**

**MD. NASAR ALI.**

**S/O LT. NAZIMUDDIN.**

**R/O MAJARBORI, P/S MIKIRBHETA.**

**DIST. MORIOGAON, ASSAM.**

**..... ACCUSED PERSON.**

**PRESENT: -**

**SMTI. ANAMIKA BARMAN, LL.M., A.J.S.**

**JUDICIAL MAGISTRATE FIRST CLASS**

**MORIOGAON, ASSAM.**

**FOR THE STATE: -**

**MR. M. ISLAM, LEARNED A.P.P.**

**FOR THE ACCUSED: -**

**MR. F. RAHMAN, LEARNED ADVOCATE.**

**EVIDENCE RECORDED ON: - 04.10.2019.**

**ARGUMENT HEARD ON: - 04.10.2019.**

**JUDGMENT DELIVERED ON: - 04.10.2019.**

**JUDGMENT**

1. The brief of the prosecution story is that one Musstt. Husna Begum filed an FIR before the Officer-in-Charge, Jaluguti P.P. on 04.08.2018 alleging inter-alia that she got married to the accused person Md. Nasar Ali about 30 (thirty) years prior to the filing of the FIR as per Islamic rites and rituals. After her marriage the informant started her conjugal life with the accused person as a result of which 3 (three) children were

born to them. However, the accused person started to inflict physical and mental tortures upon the informant in connection with dowry demand. When the informant was unable to fulfil such demand, the accused person on 28.06.18, assaulted the informant and her children and also gave "talaq" (divorce) to the informant after which the informant and her children started to live separately from the accused person. When the informant approached the villagers for settling the matter, the accused person on 21.07.18 threatened to kill the informant and drove her out of his house along with her children. Hence, the case.

2. On receipt of the ejahar, Jaluguti P.P. registered the complaint as GDE No. 80 dated 04.08.18 and forwarded the same to the Mikirbheta P.S. On receipt of the ejahar, Mikirbheta P.S. registered the case as Mikirbheta P.S. case No. 285/18 u/s 498(A)/506 of the IPC and the case was investigated into. On completion of the investigation, I/O filed charge-sheet against the accused person Md. Nasar Ali u/s 498(A) of the IPC.

3. In pursuant to the court-process, the accused person appeared before the Court. Copies of relevant documents were furnished to the accused person u/s 207 of Cr. P.C. After hearing the learned counsels for both the sides and on finding sufficient prima facie materials to presume that the accused person had committed offence punishable u/s 498(A) of the IPC, charge under the said section was framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. In support of its case, the prosecution examined only 1(one) witness. In view of the evidence recorded, the Ld. APP verbally submitted to close PWs as the prosecution declined to adduce further evidence. After closure of prosecution evidence, statement U/S 313 of Cr.P.C. has been dispensed with as found not necessary. Heard the arguments put forward by the learned Counsels for both the sides as well as gone through the evidences available on record.

5. **Point for determination:**

*(1) Whether the accused person being the husband of the informant/victim Musstt. Husna Begum subjected her to cruelty after his marriage with the informant, and hence committed an offence u/s 498(A) IPC?*

### **Discussion, Decision and Reasons thereof:-**

6. In this case, the prosecution examined only 1 (one) witness. The informant/victim Musstt. Husna Begum was examined as PW-1 to prove the charge against the accused person.

7. Before going to decide the points for determination, let me describe the evidence in brief. *In her examination-in-chief* PW-1/informant/victim, Musstt. Husna Begum, deposed that she is the informant and she knows the accused person standing on the dock as the accused person is her husband. PW-1 got married to the accused person in the year 1990 and she has three children from that marriage. She further deposed that she had filed the instant case about 1 1/2 (one and half) years ago. On the date of the incident she had a verbal altercation with the accused person over some family matters and she filed the instant case in that misunderstanding. However, at present PW-1 is living peacefully with the accused person in his house.

8. *During her cross examination*, PW-1 stated that she does not have any objection if the accused person is acquitted.

9. On perusal of the evidences recorded by the prosecution side, it appears that the PW-1/informant/victim is not willing to proceed with the case further and she stated that the case was filed out of some misunderstandings. At present PW-1/victim is living with her husband/accused person peacefully and she does not have any objection if the accused person is acquitted.

10. In view of the evidence on record, the prosecution side declined to adduce further evidence. This being so there is nothing in the evidence of prosecution warranting conviction of the accused person u/s 498(A) IPC as the evidence of the prosecution witness is found to be not acceptable and reliable.

11. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 498(A) IPC against the accused person beyond reasonable doubt. Accordingly, the accused person is found not guilty of the offence charged against him and he is acquitted.

**ORDER**

1. In the light of the above decision, the accused person is acquitted of the charge under section 498(A), IPC and set at liberty forthwith.
2. The bail bond of the accused person is extended for a period of 6(six) months as per section 437-A, CrPC.
3. The judgment is delivered in the open Court in presence of the accused person and his learned Counsel.
4. Given under my hand & seal of this Court and delivered in the open Court on this 4<sup>th</sup> day of October, 2019.

Dictated and corrected by me

(Miss. Anamika Barman)

JMFC, Morigaon

**(ANAMIKA BARMAN)**

**Judicial Magistrate First Class**

**Morigaon, Assam**

**APPENDIX**

**PROSECUTION WITNESSES:**

**1. P.W.-1, MUSST. HUSNA BEGUM.**

**DEFENCE WITNESSES:**

**NIL**

**EXHIBITED DOCUMENTS:**

**NIL**

**(ANAMIKA BARMAN)  
JMFC, MORIGAON  
ASSAM**