

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM**

**G.R. CASE NO.1666/2018  
(PRC No.1058/2018)**

**State**

**Vs.**

**Md. Ibrahim Ali @ Faijul  
Son of Md. Jalal Uddin  
Resident of village- Khalapia  
P.S.- Mikirbheta  
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. N.K. Bora, Ms. P. Deka

Charge framed: u/s 498A of IPC  
Evidence recorded on: 23-9-2019  
Argument heard on: 18-1-2019  
Judgment delivered on: 1-10-2019

**JUDGMENT**

**1.** The prosecution case in brief is that one Musstt. Hasina Khatun lodged a complaint in the court of Chief Judicial Magistrate, Morigaon against the accused persons namely Md. Ibrahim Ali @ Faijul and Musstt. Banesa Khatun alleging therein that both the parties reside within the jurisdiction of the court. Around one year prior to filing of the complaint, the marriage of the complainant was solemnized with the accused Md. Ibrahim Ali as per Islamic rites. The said marriage was the second marriage of the accused. At the time of the marriage, Rs.50,000/- was paid as dowry to the accused Md. Ibrahim Ali. After the marriage, the accused Md. Ibrahim Ali took the complainant to Kerala and resided there for about one year wherein the accused secretly contacted the other accused Musstt. Banesa Khatun and by demanding more dowry, money and other articles from the complainant, subjected her to harassment day and night.

Though the complainant went on tolerating all such harassment without any protest, the accused Md. Ibrahim Ali left the complainant at Kerala. When the complainant, battling severe hardship, arrived in the house of accused Md. Ibrahim Ali, aforementioned both the accused persons, on 23-6-2018, without any reason inflicted fist blows, kicks, lathi blows etc. on the complainant, snatched away her gold and silver jewelry and tried to kill her by strangulating her neck with a piece of cloth. When bloods oozed out of nose and mouth of the complainant, both the accused persons spared her life. Thereafter, the complainant lay unconscious for a long time. After a little recovery, she escaped from the clutch of the accused persons and returned to the house of her parents. Thereafter, she narrated the incident to her parents and the parents took her, along with some other witnesses, to the house of the accused persons. However, the accused persons threatened the complainant and the witnesses who accompanied her and charged towards the complainant armed with dao, dagger etc. Due to the action of the accused persons, the complainant sustained irreparable loss.

**2.** The said complaint was forwarded to the Officer-in-Charge of Mikirbheta police station for investigation and submission of report under section 173 CrPC, as per prayer of the complainant. Accordingly, the complaint was received in the Mikirbheta police station on 5-7-2018 and a Mikirbheta police station case No.238/2018 under sections 498A/307/506/34 IPC was registered and one sub inspector of police Sri Utpal Kr. Nath, who was the In-Charge of the Boribazar Petrol Post, was assigned the investigation of the case by the Officer-in-Charge of the said police station. On completion of investigation police submitted charge sheet against the accused Md. Ibrahim Ali @ Fajul 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 Musstt Hasina 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 signatures of the informant are proved as exhibit-1(1) and 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 Mrs. Alakananda Kakati, learned APP as well as the argument of Mr. Newton Kr. Bora, assisted by Ms. Purabi Deka, learned defence counsels. I have also 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. Hasina Khatun, on or about 23-6-2018 and also on other dates, at village Khalapia, under Mikirbheta 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 person with the alleged offence. The witness deposed that she obtained talak from the accused Md. Ibrahim Ali as per amicable settlement arrived at by them. The witness further stated the she has no issue from the accused side. After the occurrence, she married Md. Aminul Hoque and at present she has been living with him. As such, she no longer wants to proceed with the case.

**7.** It is seen that there is absolutely nothing on record against the accused person to implicate him with the alleged offence. The key witness 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 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 1<sup>st</sup> day of October, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

**APPENDIX**

- (A) **PROSECUTION EXHIBITS:**  
Ext.-1: Ejahar  
Ext.-1 (1) & 1 (2): Signatures of Musstt. Hasina Khatun
- (B) **DEFENCE EXHIBITS**  
None
- (C) **EXHIBITS PRODUCED BY WITNESSES**  
None
- (D) **COURT EXHIBITS**  
None
- (E) **PROSECUTION WITNESSES**  
P.W.-1: Musstt. Hasina Khatun
- (F) **DEFENCE WITNESSES**  
None
- (G) **COURT WITNESSES**  
None

Chief Judicial Magistrate, Morigaon