

Gr 1797/16
State
Vs
Ajnur Ali

IN THE COURT OF JUDICIAL MAGISTRATE 1st CLASS, NALBARI

Case No. GR 1797/2016 u/s 498A r/w sec 4 of Dowry Prohibition Act

STATE

-Vs-

AJNUR ALI..... Accused

Present: RUBINA YASMIN, A. J. S.

Advocates appeared:

Mrs Pritima Devifor the State.

Mr. K. Barmanfor the accused.

Date of prosecution evidence – 13-06-18, 03-07-18, 23-07-18, 05-9-18

Date of argument – 18-09-18

Date of judgment – 26-09-18

Judgment

1. Mrs. Anowara Bibi initiated the instant case by filing written 'ejahar' before the O/C, Belsore P.S. on 21.11.16. The Prosecution case in brief is that one year prior to the date of offence the accused has been torturing her in view of dowry demand. It is further alleged that on 09.11.16 the accused person physically assaulted and beaten her and driven her out of her matrimonial home when she was in her second trimester pregnancy. Hence the ejahar.
2. On receipt of the 'ejahar', police has registered the case as Belsore P.S. case No. 241/16 u/s 498A IPC and investigated the matter. On completion of investigation, police filed charge sheet against the accused person Ajnur Ali under section 498 A IPC read with section 4 of Dowry Prohibition Act.

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3. During trial, the accused person entered on his appearance and was allowed to go on bail. Relevant copies of the documents of the case were furnished to him u/s 207 CrPC. Upon perusal of materials on record and after hearing both sides, sufficient materials were found against the accused person u/s 498 A/323 IPC read with section 4 of Dowry Prohibition Act and accordingly charges were framed. The contents of the charges were read over and explained to the accused to which he pleaded not guilty and claimed to be tried.
4. Prosecution in support of the case examined 4 witnesses. Defence side did not examine any witness in support of their defence. Examination of the accused person u/s 313 of CrPC were dispensed with as no incriminating materials were found against him.
5. I have heard argument of both sides.

Points For Determination

6. Upon hearing and perusal of the record, I have framed the following points for determination:
 - a. Whether the accused person being the husband of the informant subjected her to cruelty in view of non- fulfillment of dowry demand and has committed an offence punishable under section 498 A IPC?
 - b. Whether the accused demanded dowry from the parents of the informant cum victim and thereby committed an offence punishable under section 4 of Dowry Prohibition Act?

Decision Discussion and Reasons thereof

7. I have carefully gone through the entire evidence on record and materials placed before me.
8. On perusal of the evidence on record it is seen that three witnesses which has been examined has deposed that they have no knowledge about the occurrence. Moreover, the investigating officer has not deposed anything more than the usual procedure of investigation. Further he did not find any injured person during the investigation.
9. It is also pertinent here to mention that summon to victim/complainant Anowara Bibi

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was returned with a report that she is dead and death certificate was also tagged with the same. Moreover, the Pw Md. Majir Ali was not found in his address and the nearby people could not furnish his whereabouts. Hence his evidence was also dispensed with.

10. Now on going through the entire evidence on record it appears that vital witnesses examined by prosecution side have not supported the prosecution case. None of the witnesses has knowledge about the occurrence. In result, there is no incriminating materials found against the accused person.
11. I, therefore, find that the prosecution has failed to establish the guilt of the accused person. Accordingly, accused person Ajnur Ali is held not guilty of the offence punishable u/s 498A of IPC read with sec 4 of Dowry Prohibition Act and accordingly, he is acquitted and set at liberty forthwith.
12. The bail bond furnished on behalf of the accused person shall remain in force for a further period of six months.
13. The seized article, if any, be returned to the original owner as per law in due course.

Given under my hand and seal of this court on this 26th day of September, 2018.

Rubina Yasmin
J.M.F.C. Nalbari

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APPENDIX

Prosecution witness:

PW 1 – Jakir Ali

PW 2 – Mrs. Achia Bibi

PW 3 – Nababor Ali @ Rahman

PW 4 – ASI Dilip Deka

Defence Witness

Nil

Exhibits:

Ex 1 – Sketch map

Ex 1 (1) – signature of I/O

Ex 2 – charge sheet

Ex 2 (2) – Signature of I/O

Rubina Yasmin

J.M.F.C. Nalbari