

Gr 1845/17
State
Vs
Nasir Ali

IN THE COURT OF JUDICIAL MAGISTRATE 1st CLASS, NALBARI

Case No. GR 1845/2017 u/s 498A IPC

STATE

-Vs-

NASIR ALI Accused

Present: RUBINA YASMIN, A. J. S.

Advocates appeared:

Mrs Manika S. Chakrabarty.....for the State.

Miss Chaminara Begumfor the accused.

Date of prosecution evidence – 13.09.18

Date of argument – 13.09.18

Date of judgment – 13.09.18

Judgment

1. Mrs. Parbin Ahmed initiated the instant case by filing written 'ejahar' before the O/C, Mukalmua P.S. on 21.11.17. The Prosecution case in brief is she got married to the accused person Nasir Ali some four years ago from the date of occurrence and subsequent to her marriage the accused person started torturing her mentally and physically for non-fulfilling of dowry demands. It is further alleged that the accused person on 25.10.17 assaulted her and driven her out of her matrimonial home. Hence the ejahar.
2. On receipt of the 'ejahar', police has registered the case as Mukalmua P.S. case No. 421/17 u/s 498A/34 IPC and investigated the matter. On completion of investigation,

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police filed charge sheet against the accused person Nasir Ali u/s 498A IPC.

3. During trial, the accused person was allowed to go on bail. Relevant copies of the documents was 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 persons u/s 498A IPC and accordingly charges were framed. The contents of the charges were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. Prosecution in support of the case examined 2 witnesses. Defence side did not examine any witness in support of their defence. Examination of the accused person u/s 313 of CrPC. was 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:
 - I. Whether the accused person being the husband of the informant in the period following his marriage with the informant subjected her to physical and mental torture in connection with their unlawful demand for money and thereby committed an offence punishable under section 498 A IPC?

Evidence on Record:

7. I have carefully gone through the entire evidence on record and materials placed before me.
8. Pw1 Saleha Bibi is the informant of this case as well as the victim. She has deposed in her evidence that an altercation took place between her and the accused person with regard to some home affairs and then she filed the case. She further stated that they have settled the matter now.
9. Pw2 Rustam Ali also deposed the same as Pw1.
10. Now on going through the entire evidence on record it appears that vital witnesses examined by prosecution side, the informant as well as the alleged victim and other Pw have not supported the prosecution case. And in my considered opinion in every

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family some kind of altercation exist between the husband and wife. Therefore a single act of altercation, in absence of any such circumstances where the Prosecution could prove that the accused persons have tortured the victim to such an extent that she tried to commit suicide, sec 498A does not attract to. 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 Nasir Ali is held not guilty of the offence punishable u/s 498A IPC 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.

Given under my hand and seal of this court on this 13th day of September, 2018.

Rubina Yasmin
J.M.F.C. Nalbari

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APPENDIX

Prosecution witness:

PW 1 – Saleha Bibi

PW 2 – Rustam Ali

Defence witness:

Nil

Exhibits:

Ext. 1- ejahar

Ext. 1(1) - Signature of the informant

Rubina Yasmin
J.M.F.C. Nalbari