

P.R.C. CASE NO: 688 OF 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI RATUL SARMA

DISTRICT: NALBARI
IN THE COURT OF THE SUB DIVISIONAL JUDICIAL MAGISTRATE:::::NALBARI

P.R.C.CASE NO:688/18
U/S 498(A) IPC

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: RATUL SARMA

PRESENT : SHALMA AZAZ, S.D.J.M., (S) NALBARI.

ADVOCATE FOR THE PROSECUTION: SHRI R.CHAKROVERTY

ADVOCATE FOR THE ACCUSED: SHRI A.TALUKDAR

CHARGE FRAMED ON: 15.02.19

EVIDENCE RECORDED ON: 20.02.19

ARGUMENT HEARD ON: 20.02.19

JUDGMENT DELIVERED ON: 20.02.19

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JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Nalbari Police Station, by the informant/ victim, Smti Alaka Sarma on 06.10.2011, against the accused persons, Sri Ratul Sarma, Pinku Rajbongshi and Jonali Rajbongshi, to the effect that, the accused namely, Sri Ratul Sarma, legally married her, and on 05.10.11 at about 10:30 p.m, at night accused Pinku Rajbongshi and Jonali Rajbongshi chased her and entered her room, and instigated her husband/accused Ratul Sarma and all of them demanded dowry articles and money. Accused Jonali Rajbongshi used obscene language against her and ordered accused Ratul Sarma and Pinku Rajbongshi to beat her. Accused Pinku Rajbongshi caught her hair and accused Ratul Sarma gave blow to her back side of neck and left eye , and when she raised hue and cry the neighbours came to the place of occurrence and accused persons fled away from the place of occurrence and hence she lodged this case.
2. The police upon receipt of the ejahar registered it as Nalbari Police Station case no.576/11 under sections 498(A) IPC and started investigation in the case. After completion of the investigation the police submitted charge sheet against the accused person namely, Sri Ratul Sarma under section 498(A) IPC.
3. The accused person was called upon to enter trial and after causing his appearance the copies of the relevant documents were furnished to the accused. Upon hearing and on perusal of record the particulars of offence under section 498A of IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined the informant/victim of this case. The prosecution prayed to close the evidence as the principal witness, i.e the informant/victim did not support the case of the prosecution and the examination of the other witnesses is not required. I have perused the record and it appears that the informant/victim was the principal witness for the prosecution; hence when she has not supported the case of the prosecution then, further examination of other witnesses would merely be a futile exercise, as it will not change the merit of the case; as such the evidence of the prosecution side is closed.

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5. The statement of the accused person under section 313 of CrPC, is dispensed with as there was no incriminating materials against the accused person.
6. I have heard both the parties. I have heard the learned counsel for the accused who submitted that there is no material against the accused person; as such the accused person need to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following points for determination-
 - (1) Whether the accused person, legally married the victim Smti Aloka Sharma, and during the subsistence of his marriage with the victim, treated her with cruelty, and thereby committed offence under section 498A IPC?
8. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

DISCUSSION, DECISION AND REASONS FOR THE DECISION:

POINT FOR DETERMINATION NO.1:

9. The prosecution has examined only one witness in support of its case, i.e the alleged victim.
10. The PW1, Smti Aloka Sharma, who is the informant/victim of this case, has stated that the accused is her husband and that on the day of incident, she had some altercation over a domestic matter with her husband; as such she out of anger and misunderstanding, lodged this ejahar against the accused, but after that the accused came and talked with her, their misunderstanding was resolved and that she and her husband (accused) along with their sons are presently residing together happily . She had also stated that she does not have any grievance against the accused. The alleged victim had also deposed that the accused person never treated her with cruelty.
11. Upon perusal of the above evidence on record it is established that the victim lodged the ejahar against the accused out of anger and misunderstanding, and that no ingredient of the offence under section 498A

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IPC is made out. The frequent quarrels due to some differences between the husband and wife cannot be termed as cruelty within the definition of section 498A IPC.

12. Hence , from the above it is seen that, there is no material on record to show that the accused person treated the victim Smti Aloka Sarmah, with cruelty and moreover the alleged victim has admitted that they are presently residing together and are maintaining a good relation.
13. In view of the above it is held that the prosecution has failed to prove that the accused have committed offence under section 498A IPC.
14. *DECISION:* The prosecution has failed to prove that the accused had committed offence under section 498A IPC; as such the point for determination is answered in the negative, in favour of the accused person.

ORDER

15. In view of the discussions made above and the decision reached therein it is held that the prosecution has failed to prove the charge against the accused person; as such the accused Si Ratul Sarma is acquitted of the charge under section 498A IPC and he is set at liberty. The bail bond of the accused shall remain in force for six months in view of section 447A CrPC.
16. The case is disposed of on contest without cost.

Given under my hand and the seal of this court on this the 20th day of February, 2019 at Nalbari.

Shalma Azaz,

S.D.J.M., (S)

Nalbari

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APPENDIX

PROSECUTION EXHIBITS:

1) EXHIBIT 1-EJAHAR

DEFENCE EXHIBITS

NONE

PROSECUTION WITNESSES

1) SMTI ALOKA SARMA.

DEFENCE WITNESSES

NONE

SHALMA AZAZ,
JMFC, GOSSAIGAON

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