

Prc 795/18
state
vs
Jakir Ali

IN THE COURT OF JUDICIAL MAGISTRATE 1st CLASS, NALBARI

Case No. PRC 795/2018 u/s 498A IPC

STATE

-Vs-

JAKIR ALI..... Accused

Present: RUBINA YASMIN, A. J. S.

Advocates appeared:

Mr Hem Chandra Sarma.....for the State.

Miss Jintuara Begumfor the accused.

Date of prosecution evidence – 03.07.19

Date of argument – 03.07.19

Date of judgment – 03.07.19

Judgment

1. Md. Mainuddin Ali initiated the instant case by filing written "ejahar" before the O/C, Belsore P.S on 23.04.16. The Prosecution case in brief is that the accused person is the husband of the informant and subsequent to her marriage the accused person has been subjecting her to physical and mental torture and that the accused persons assaulted her and had driven her out of her matrimonial home.

2. On receipt of the "ejahar" police has registered the case as Belsore P.S. case No. 84/16 u/s 498A/323/506 IPC and investigated the matter. On completion of investigation, police filed charge sheet against the accused person Jakir Ali u/s 498A IPC.

3. During trial, the accused persons were allowed to go on bail. Relevant copies of the documents were furnished to the accused person u/s 207 CrPC. Upon perusal of materials on

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record and after hearing both sides, sufficient materials were found against the accused person 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 and declined to adduce further evidence. Defence side did not examine any witness in support of their defence. The examination of the accused person u/s 313 of CrPC was dispensed with as no incriminating materials were found against him. Defence declined to adduce evidence on his behalf.

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 persons being the husband of the informant in the period following the marriage of the informant with the accused husband 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?

Discussions, Decisions and Reasons Thereof

1. I have carefully gone through the entire evidence on record and materials placed before me.

2. Pw 1 Mainuddin Ali who is the informant has deposed in his evidence that an altercation took place between his daughter and the accused with relate to some household issues so he filed the case against the accused person but now the matter is settled between them and she now stays with the accused person.

3. Pw 2 Firoza Begum who is the victim of this case also deposed to the tune of Pw 1.

4. Now on going through the evidence it transpires that the informant/victim has not stated anything incriminating against the accused. It seems a minor altercation took place between them and later the informant filed the ejahar in resentment. And in my considered opinion in every family some kind of altercation exist between 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.

5. Therefore, the vital witnesses examined by prosecution side, have not supported the

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prosecution case. I, therefore, find that the prosecution has failed to establish the guilt of the accused persons beyond reasonable doubt. Accordingly, accused person Jakir Ali is held not guilty of the offence punishable u/s 498A IPC and accordingly, he is acquitted and set at liberty forthwith.

6. 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 3rd day of July, 2019.

Rubina Yasmin

J.M.F.C. Nalbari

APPENDIX

Prosecution witness:

PW 1 – Mainuddin Ali

PW 2 – Firoja Begum

Defence witness:

Nil

Exhibits:

Ex 1 – ejahar

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