

::IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, NALBARI::

PRESENT : = Sri K. C. Boro, A.J.S.

Ref: PRC No.1372/2019

State

-VS-

(i) Md. Saddam Ali

S/o- Md. Sahjahan Ali

(ii) Md. Sahjahan Ali

S/o- Lt. Kalu Mia

Both of them are resident of

Village- Kalardia Char

PS- Mukalmua.

Dist. Nalbari, Assam

..... Accused persons.

u/s-498(A)/34 IPC.

EVIDENCE RECORDED ON : 05.02.2020.

ARGUMENT HEARD ON : 05.02.2020.

JUDGMENT DELIVERED ON : 05.02.2020.

ADVOCATES APPEARED :

For the State : Mr. D. Talukdar, Ld. A.P.P.

For the Accused : Mr. J. U. Ahmed, Ld. Advocate.

J U D G M E N T

1. The case of the prosecution, in a brief, is that an FIR was filed on 08.06.2019, before the Officer-in-Charge of Mukalmua PS by informant Ms. Surut Jan by putting her thumb impression against the accused

persons namely Saddam Ali, Sahjahan Ali and the family members of Sahjahan Ali, alleging, inter-alia that she got married with accused Saddam Ali about 1 year 6 months ago and out of the wedlock, she is blessed with a female child. She alleged that after her marriage, the accused persons used to torture her physically as well as mentally. It is alleged that on 04.06.2019, at about 3.00 pm, the accused assaulted her by means of lathi and hand in a domestic matter as a result of which she sustained injury on her person. Furthermore, the accused also threatened her with dire consequence. Hence, the case.

2. On receiving the case, the O.C of Mukalmua PS registered Mukalmua P.S. Case No.283/2019 u/s-498(A) IPC and started investigation. On completion of investigation the I.O laid charge-sheet against the accused persons namely Saddam Ali and Sahjahan Ali u/s-498(A) IPC vide CS No.117/2019 dated 24.06.2019.

3. In pursuance of the process issued, the accused persons appeared before the court and on their appearance the copies of the case as per the mandate of law u/s-207 Cr.P.C. were furnished to the accused persons. Thereupon prima facie case was found against the accused persons u/s-498(A)/34 I.P.C and the charge of the offences u/s-498(A)/34 I.P.C. was framed, read over and explained to the accused persons and they were asked whether they would plead guilty of the offences charged or claimed to be tried. They had pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution side examined two (2) witnesses. 313 Cr.P.C statements of accused persons were dispensed with. The defence side declined to adduce any evidence.

5. I have heard the argument of both the sides.

POINT FOR DETERMINATION

- Whether the accused persons being the husband and father-in-law respectively of informant Ms. Surut Jan, in furtherance of their common intention, on or before 04.06.2019, at about 3.00 pm, at village Kalardia char under Mukalmua PS, subjected informant cum victim to cruelty which was of such a nature as to cause grave injury to

her life or limb and coerced her to meet unlawful demand and thereby committed an offence punishable u/s 498(A) I.P.C.?

DECISION AND REASONS THEREOF:-

6. PW.1 is Surut Jan Bibi, informant. She deposed that she got married with accused Saddam about 2½ years ago. Due to a difference, she returned from her matrimonial house. Later on, FIR was filed. Now she is cohabiting with the accused.

7. Defence declined to cross-examine this witness.

8. PW.2 is Sohrab Ali. He deposed that informant is his daughter. He deposed that his daughter left the residence of the accused due to a dispute. Now the matter has been compromised and both of them are residing well.

9. Defence declined to cross-examine this witness.

10. These are the materials on record.

11. I have carefully perused the evidence on record. Now the provisions of Sec. 498(A) I.P.C. read as under :

498(A) IPC: Husband or relative of husband of a woman subjecting her to cruelty; Whoever being the husband or relative of the husband of a woman subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation for the purpose of this section "cruelty" means-

(a) Any willful conduct which is of such a nature as is likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) Harassment of the woman where such harassment is with a view to coerce 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 any person related to her to meet such demand.

12. From the materials on record, it is found that PW.1 i.e. informant cum victim and PW.2 have not implicated the accused persons of commission of offences u/s-498(A)/34 IPC. PW.1 has merely stated that on the day of the incident, she had a dispute with the accused persons regarding a trivial issue and later on, she lodged the FIR. The informant has not stated anything incriminating material regarding the incident against the accused persons. The prosecution witnesses further deposed that now the matter has been compromised.

13. In the totality of evidence on record and assessment thereof; this court landed in a decision that the prosecution has failed to prove the case beyond all reasonable doubt against the accused persons namely Md. Saddam Ali and Md. Sahjahan Ali. Therefore, this court holds the accused persons namely Md. Saddam Ali and Md. Sahjahan Ali not guilty of the offences under section 498(A)/34 IPC and they are acquitted of the offences u/s-498(A)/34 IPC and set at liberty forthwith.

14. Bail bonds furnished by them will remain in force till expiry of the appellate period.

15. Judgment is written in separate sheets and delivered in open court.

Given under my hand and seal of this court on this the 05th day of February, 2020.

(Sri. K. C. Boro)

**Chief Judicial Magistrate
Nalbari.**

Dictated and corrected by me

(Sri. K. C. Boro)

**Chief Judicial Magistrate
Nalbari**

Jitul

APPENDIX:

Witnesses for the prosecution

PW.1 - Surut Jan Bibi, informant.

PW.2 - Sohrab Ali.

Witnesses for the defence

None.

Prosecution Exhibits

None.

Defence Exhibits

None.

(Sri. K. C. Boro)
Chief Judicial Magistrate
Nalbari