

PRC 1352/19  
state  
vs  
Salauddin  
Sarifunnesa

**IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>st</sup> CLASS, NALBARI**

**Case No. PRC 1352/2019 u/s 498A IPC**

**STATE**

**-Vs-**

**SALAUDDIN**

**SARIFUNNESA..... Accused**

Present: RUBINA YASMIN, A. J. S.

Advocates appeared:

Mr Hem Sarmah.....for the State.

Mr. Pankaj Sarmah .....for the accused.

Date of prosecution evidence – 28.02.20

Date of argument – 28.02.20

Date of judgment – 28.02.20

**Judgment**

1. Mrs Sabita Begum initiated the instant case by filing written "ejahar" before the O/C, Ghograpar P.S on 15.07.19. 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 Ghograpar P.S. case No. 283/19 u/s 498A IPC and investigated the matter. On completion of investigation, police filed charge sheet against the accused persons Salehuddin and Sarifunnesa 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 record and after hearing both sides, finding sufficient materials against the accused person u/s 498A IPC my learned predecessor accordingly framed charges. The contents of the charges were read over and explained to the accused person to which they pleaded not guilty and claimed to be tried.

4. Prosecution in support of the case examined 3 witnesses and declined to adduce further evidence. As the informant who is the victim herself has stated no incriminating materials against the accused person hence calling the other witnesses would not raise the merits of the case and hence the prayer for dispensing with the evidence of other witnesses was allowed. 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 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 Asraf Ali deposed in his evidence that informant and accused person stayed for 5-6 months after marriage and then she went to her parent's house and did not come back. He do not know if anything happened between them. Pw 2 Bubul Ali also deposed to the tune of PW 1.
3. Pw 3 Sabita Begum who is the informant has deposed in her evidence that due to some domestic issues an altercation took place between her and her husband and she filed the ejarah out of anger. Now she is not willing to proceed with the case as she has amicably settled the matter with him.

4. Now on going through the evidence it transpires that the informant/victim has not stated anything incriminating against the accused. 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 prosecution case. I, therefore, find that the prosecution has failed to establish the guilt of the accused persons beyond reasonable doubt. Accordingly, accused persons Salehuddin and Sarifunnesa are held not guilty of the offence punishable u/s 498A IPC and accordingly, they are 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 28<sup>th</sup> day of January, 2020.

Rubina Yasmin

J.M.F.C. Nalbari

## **APPENDIX**

### **Prosecution witness:**

*PW 1 – Asraf Ali*

*PW 2 – Bubul Ali*

*PW 3 – Sabita Begum*

### **Exhibits:**

*Ex 1 – ejahar*

### **Defence witness & Exhibits:**

*Nil*

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