

**THE COURT OF THE SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI**

PRESENT:- **KAUSHIK KAMAL BARUAH, S.D.J.M.(S),
NALBARI.**

DATE OF JUDGMENT:- **28/02/2022**

CASE NO:- **PRC- 644/2020**

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| COMPLAINANT | STATE OF ASSAM |
| REPRESENTED BY | SMT. MONIKA CHAKRABORTY |
| ACCUSED | MOSLEM ALI S/O LATE AJGAR ALI R/O BAKRIKUCHI P.S. MUKALMUA DISTT. NALBARI |
| REPRESENTED BY | RASHED BHUYAN |

| | |
|---------------------------------------|-------------------|
| DATE OF OFFENCE | 24/10/2020 |
| DATE OF FIR | 24/10/2020 |
| DATE OF CHARGE-SHEET | 31/10/2020 |
| DATE OF FRAMING CHARGE | 23/11/2021 |
| DATE OF COMMENCEMENT OF EVIDENCE | 28/02/2022 |
| DATE ON WHICH JUDGMENT IS RESERVED | 28/02/2022 |
| DATE OF JUDGMENT | 28/02/2022 |
| DATE OF THE SENTENCING ORDER, IF ANY. | N/A |

JUDGMENT

Accused Moslem Ali stood trial for offence punishable under section 498-A of the Indian Penal Code, 1860 (the IPC for short).

Material facts of the case as appears from the contents of the First Information Report (FIR for short) are as follows:- that, informant, Sapjan Begum, is the legally married wife of above named accused and that their marriage was performed in the year 2019 as per Islamic rites and customs. However, since her marriage with above named accused, she was tormented by him in demands for money to the tune of Rs.5000/- (Rs. Five thousand only) and other properties. Finally, on 24/10/2020, above named accused person kicked her out of the matrimonial home located at Bakrikuchi under Mukalmua Police Station (PS for short) on account of her failure to satisfy his illicit demands.

On the same day, informant named-above lodged a written FIR before the Officer-in-Charge (O/C for short) of Mukalmua P.S. which was registered and numbered as Mukalmua P.S. Case No.465/2020 u/s 498-A of the IPC. During the course of investigation, the investigating officer (I/O) visited the place of occurrence, recorded statements of witnesses u/s 161 of the Code of Criminal Procedure, 1973 (the Cr.P.C. for short) and made a rough sketch map

of the place of occurrence. At the same time, the accused named above could not be traced out despite thorough search made by the I/O.

After completing the investigation, the I/O returned the case in Final Form for prosecution of the accused person u/s 498-A of the IPC wherein the accused was shown as an absconder.

Court processes were issued and on his appearance the accused was allowed to go on bail. Copies of all relevant documents were furnished to the accused person. Particulars of the offence u/s 498-A of the IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

Prosecution examined one (01) witness and closed evidence. Examination of the accused u/s 313 of the Cr.P.C. was dispensed with as nothing was deposed against him.

Heard arguments advanced by learned Assistant Public Prosecutor and learned defence counsel.

POINTS FOR DETERMINATION

Whether accused Moslem Ali, on 24/10/2020 at about 03:30 PM Bakrikuchi under Mukalmua P.S., subjected his wife Sapjan Begum to acts of physical cruelty endangering her life, limb and health?

And, thereby the accused is liable to be punished u/s 498-A of the IPC.

DISCUSSION, DECISION AND REASONS
THEREON

In order to establish the allegations against the accused person, prosecution examined Sapjan Begum as PW1 and closed evidence.

PW1, Sapjan Begum, was the informant. Her deposition is as follows:-

"I am the informant. Accused person is my husband. On the date of occurrence I had an argument with my husband on a domestic issue and on a misunderstanding of fact I filed FIR against him whereon I had affixed my thumb impression. Presently, we are residing together and I have no objections if the accused is acquitted.

XXXXXXXXXX

Cross-examination declined by defence."

Above stated narration of facts is all that the prosecution has in its armory against the accused person. But, even a cursory glance at it demonstrates that the informant, who was also the victim of the occurrence, had

not at all incriminated the accused person of the offences for which he was prosecuted. It appears from the testimonies tendered by above named witness, that, instant case arose simply out of a misunderstanding on her part and nothing more. In my view, there is not a shred of evidence worth the name against the accused person named above.

In a nutshell, prosecution had failed to prove the allegations against accused Moslem Ali for the offence u/s 498-A of the IPC beyond all shadow of doubt.

The point for determination is, therefore, decided in the negative.

ORDER

As such, from the observation and discussion done hereinbefore, I arrive at the conclusion that the prosecution had failed to establish the allegation against accused Moslem Ali for the offence u/s 498-A of the IPC beyond all shadow of doubt. As such, the accused is acquitted of the offence under the section of law indicated above.

Accused person be set at liberty forthwith. Bail bonds of the accused person stands effective for next six months from today. The accused person may obtain copy of the judgment but not without payment.

Instant case is disposed of on contest.

Given under my hand and Seal of the Court this 28th
day of February, 2022.

Typed and corrected by me and every page bears my
signature.

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.

ACCUSED DETAILS

| RANK OF THE ACCUSED | NAME OF ACCUSED | DATE OF ARREST | DATE OF RELEASE ON BAIL | OFFENES CHARGED | ACQUITTED/ CONVICTED | SENTENCE IMPOSED | PERIOD OF DETENTION UNDERGONE DURING TRIAL |
|---------------------|-------------------|----------------|-------------------------|-------------------------|----------------------|------------------|--|
| A1 | MOSLEM ALI | N/A | N/A | 498-A OF THE IPC | ACQUITTED | N/A | NIL |

LIST OF PROSECUTION/PROSECUTION/DEFENCE/COURT WITNESSES

A. PROSECUTION:-

| RANK | NAME | NATURE OF WITNESS |
|------------|---------------------|--------------------|
| PW1 | SAPJAN BEGUM | EYE WITNESS |

B. DEFENCE WITNESSES, IF ANY:- NONE

C. COURT WITNESSES, IF ANY:- NONE

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. PROSECUTION:- NIL

B. DEFENCE:- NIL

C. COURT EXHIBITS:- NIL

D. MATERIAL OBJECTS:- NIL

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.