

**THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI**
P.R.C. CASE NO.- 1856/2019
U/S 498-A OF THE IPC

STATE

VS.

SRI NITUL SARMA
S/O LATE PRASANNA SARMA
R/O PONARKUNIYA
P.S. GHOGRAPAR
DISTT. NALBARI

PRESENT:- KAUSHIK KAMAL BARUAH
SUB-DIVISIONAL JUDICIAL MAGISTRATE (SADAR)
AT NALBARI

APPEARANCES:- SMT. MONIKA CHAKRABORTY.....FOR STATE

SRI RAJIB KUMAR BARMAN

AND

SRI PRADIP KUMAR SARMA.....FOR ACCUSED

DATE OF EVIDENCE:- 07/01/2022.

DATE OF ARGUMENT:- 07/01/2022.

DATE OF JUDGMENT:- 07/01/2022.

JUDGMENT

1. Accused Sri Nitul Sarma stood trial for offence punishable under section 498-A of the Indian Penal Code, 1860 (the IPC for short).
2. Material facts of the case as appears from the contents of the First Information Report (FIR for short) are as follows:- that, marriage between the informant, namely, Smt. Dulumoni Devi, and the accused named-above was solemnized about five years prior to filling of the FIR, dated- 24/09/2019, according to social rites and customs after which she was taken to her matrimonial home at Ponarkuniya under Ghograpar Police Station (PS for short). But, soon thereafter the accused started to mete out acts of cruelty on the informant demanding money. Finally, on 13/09/2019, the accused reiterated his acts of cruelty on her and even threatened her with dire consequences and drove her out of the matrimonial home.
3. On 24/09/2019, informant named-above lodged a written FIR before the Officer-in-Charge (O/C for short) of Ghograpar PS which was registered and numbered as Ghograpar P.S. Case No.424/2019 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), collected medical report of the

victim, made a rough sketch map of the place of occurrence and directed the accused to comply with section 41-A of the Cr.P.C.

4. After completing the investigation, the I/O submitted police report u/s 173(2) of the Cr.P.C. for prosecution of the accused u/s 498-A of the IPC.
5. 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.
6. 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.
7. Heard arguments advanced by learned Assistant Public Prosecutor and learned defence counsel.

POINTS FOR DETERMINATION

Whether accused Sri Nitul Sarma, on 13/09/2019 at Ponarkuniya under Ghograpar PS, being the husband of Smt. Dulumoni Devi, subjected said Smt. Dulumoni Devi to acts of physical cruelty, thereby, 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

8. In order to establish the allegations against the accused person, prosecution examined Smt. Dulumoni Devi as PW1 and closed evidence.
9. PW1, Smt. Dulumoni Devi, was the informant. Her deposition is as follows:-

“I am the informant. Accused is my husband. The occurrence took place in the year 2019. Our marriage took place about seven years ago and I gave birth to two children during the course of our conjugal life. On the day of occurrence I had an argument with my husband on a trivial and on misunderstanding of fact I filed FIR against him. Ext.1 is the FIR and Ext.1(1) is my signature thereon. No occurrence took place as alleged in the FIR. Since the occurrence I am living with my husband in my matrimonial home and I have no objection if he is acquitted.

XXXXXXXXXX

Cross Examination declined by defence.”

10. Above stated narration of facts is all that the prosecution has in its armory against the accused. But, even a cursory glance at it demonstrates that the informant had not at all incriminated the accused person of the offences for which he is prosecuted. It is apparently clear from her testimony that she had an argument with the accused upon a trivial issue but that argument arose out of a misunderstanding on her part. In my considered view, it was on a mistake of fact that the criminal law was set in motion against the accused.
11. In a nutshell, prosecution had failed to prove the allegations against accused Sri Nitul Sarma for the offence u/s 498-A of the IPC in all respects.
12. The point for determination is, therefore, decided in the negative.

ORDER

13. As such, from the observation and discussion done hereinbefore, I arrive at the conclusion that the prosecution had failed to establish the allegations against accused Sri Nitul Sarma for the offence u/s 498-A of the IPC in all respects. As such, the accused is acquitted of the offence under the section of law indicated above.
14. 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.

15. Instant case is disposed of on contest.

Given under my hand and Seal of the Court this 7th day of January, 2022.

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

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

THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI
P.R.C. CASE NO.- 1856/2019
APPENDIX

- 1) Prosecution exhibits:-
 - Ext.1- FIR
 - Ext.1(1)- Signature of Smt. Dulumoni Devi
- 2) Prosecution witnesses:-
 - PW1:- Smt. Dulumoni Devi
- 3) Defence exhibits.- NIL
- 4) Defence witnesses.- NONE

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