

IN THE COURT OF JUDICIAL MAGISTRATE 1ST
CLASS:::::NALBARI

Present: SMTI NADIA REHMAN, AJS, JMFC, Nalbari

Dated:13.09.2022

PR Case No.48 of 2021

Mukalmua P.S. Case No.399/2020 u/s 498(A)/326 I.P.C.

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|----------------|--|
| COMPLAINANT : | State of Assam |
| REPRESENTED BY | Mr. Hem Chandra Sarma, Ld. APP |
| ACCUSED | 1. Sri Bimal Das (A-1), |
| REPRESENTED BY | Md. Abdul Mazid Ld. Defence Counsel |

| | |
|-------------------------------------|------------|
| Date of Offence | N/A |
| Date of FIR | 12-09-2020 |
| Date of Charge sheet | 31-12-2020 |
| Date of framing charge | 03-03-2021 |
| Date of commencement of evidence | 05-09-2022 |

| | |
|--------------------------------------|------------|
| Date on which judgment is reserved | N/A |
| Date of Judgment | 13-09-2022 |
| Date of the Sentencing Order, if any | Acquitted |

Accused Details:

| Rank of the Accused | Name of Accused | Date of Arrest | Date of Release On Bail | Offences charged with | Whether Acquitted or convicted | Sentence Imposed | Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C. |
|---------------------|-----------------|----------------|-------------------------|------------------------|--------------------------------|------------------|--|
| A-1 | Bimal Das | Not arrested | N/A | U/s- 498(A)/324 of IPC | Acquitted | N/A | N/A |

J U D G M E N T

1. In this case the accused persons namely Sri Bimal Das, S/O: Lt. Madan Das, Village: Barnibari, P.S.: Mukalmua, Dist:- Nalbari (Assam), stood for trial u/s 498(A)/324 of the IPC.

2. Prosecution case as unfolded from the ejahar, dated 12.09.2020, lodged before the O/C, Mukalmua Police Station is that, the daughter of the informant Pulki Das married to accused about eleven years ago and as a result of their wedlock the sister of the informant bacame mother of a female child. However, after the marriage the accused person on demanding money tortured the daughter of the informant physically and mentally. That on 09.09.2020 at about 6:30 p.m., the accused person demanded money from the daughter of the informant and when the daughter of the informant showed her inability to give money the accused persons gave blows on her head, right cheek and eyes. As a result of which she sustained grievous injuires on her person. Immediately, she was brought to S.M.K., Civil hospital for treatment but as she suffered grievous injuries, she is referred to G.M.C.H., for better treatment. Hence, this case was arisen.

3. The police has registered the case as Mukalmua P.S. case No.399/2020 u/s 498(A)/326 I.P.C. and investigated the matter. On completion of investigation, police filed charge sheet against the accused Bimal Das (A-1) u/s 498(A)/323 I.P.C.

4. During trial, the accused Bimal Das (A-1) was allowed to go on bail. Relevant copies of the documents were furnished to him u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, sufficient materials were found against the accused person u/s 498(A)/324 I.P.C. 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.

5. Prosecution in support of the case examined 1 (one) witness and declined to adduce further evidence. The examination of the accused Bimal Das (A-1) u/s 313 of Cr.P.C. was dispensed with as no incriminating material was found against him. Defence declined to adduce evidence on his behalf.

6. This court has heard argument of both sides.

POINT FOR DETERMINATION:

7. Upon hearing and perusal of the record, this court has framed the following point for determination:

(i) Whether the accused person Bimal Das (A-1) being the husband of the informant during the subsistence of their marriage subjected her to cruelty in connection with his unlawful demand for money and thereby committed an offence under section 498(A) I.P.C.?

(ii) Whether on 09.09.2020 at village:Barnibari under Mukalmua P.S., voluntarily cause hurt to his wife Pulki Das by means of a dao which is an instrument for stabbing etc., and thereby committed an offence under section 324 I.P.C.?

DISCUSSION, DECISION, AND REASONS THEREOF:

8. This court has carefully gone through the entire evidence-on-record and materials placed before me.

9. The prosecution has examined only one witness namely, Pulki Das who is the victim of the case.

10. P.W.1 namely Pulki Das, the victim deposed in examination-in chief that she knows the informant, he is my father. Accused Bimal Das is her husband. She legally married to Bimal Das in the year of 2011. During the wedlock, she gave birth of one girl child. However, due to some household matters, quarrels took place between her and her husband and she left the house of her husband along with her child. Out of anger, she asked her father to lodge an ejahar on her behalf against her husband and accordingly an FIR was filed against her husband at Mukalmua P.S. However, later on, the matter was amicably settled between them and since one year they are living happily in his house. Hence, she does not want to proceed with this case and have no objection if the accused person is acquitted from this case. Exhibit P-1/PW-1 is the ejahar filed by her father Jaykanta Das and exhibit P-1(1)/PW-1 is the signature of her father which she has seen and recognized today in the court.

Cross-examination of PW1 was declined by defence.

11. Now, in order to bring home an offence under section 498 (A)/324 I.P.C., the prosecution has to prove beyond reasonable doubt that the accused person has subjected the victim to cruelty due to non-fulfilment of dowry demand and that cruelty must be of such a nature that would likely to drive the victim to commit suicide or to cause grave injury or danger to life, limb or health of the victim or the harassment was with a view to coerce her to meet any unlawful demand for any property or valuable security and accused person voluntarily cause hurt to the daughter of the informant by means of a dao which is an instrument for stabbing.

12. On perusal of the evidence-on-record, it is seen that there is no deposition which could suggest that the accused person had made any kind of dowry demand or cause hurt to the daughter of the informant by means of a dao. No single instance of dowry demand or caused hurt to her by means of a dao has been mentioned by the victim in her evidence deposed in court. It appears that due to some household matters, quarrel took place between the victim and the present accused and for that reason she left him. However, the matter is amicably settled between them and at present they are living happily.

13. Therefore, the only witness examined by prosecution side, has not supported the prosecution case. Therefore, in absence of any such circumstances where the prosecution could prove that the accused Bimal Das (A-1) has tortured the victim for non-fulfilment of dowry demand to such an extent that it

was likely that the victim would be driven to commit suicide, or she was voluntarily caused hurt with a dao, sec 498A/324 I.P.C., does not attract to. In result, there is no incriminating material found against the present accused person.

14. This court therefore, finds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. As such, accused Bimal Das (A-1) is not held guilty of the offence punishable u/s 498(A)/324 of I.P.C. and accordingly, he is acquitted and set at liberty forthwith.

15. The bail bond furnished on behalf of the accused person shall remain in force for a further period of six months.

16. Given under my hand and seal of this court on this 13th day of September, 2022.

Smti. Nadia Rehman, LLM, AJS

J. M. 1st Class Nalbari.

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|------------------|---|
| PW-1 | Pulki Das | Informant |

B. Defence Witnesses, if any: Nil

C. Court Witnesses, if any : Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--|
| 1 | Exh. P-1/PW-1 | Is the Ejahar which was filed by victim's father Jaykanta Das and the same is recognized by Pulki Das as she was the victim of the case |
| 2 | Exh. P-1(1)/PW-1 | Signature of the informant |

B. Defence : Nil

C. Court Exhibits: Nil

D. Material Objects: Nil

Smti. Nadia Rehman, LLM, AJS

J. M. 1st Class Nalbari.