

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

Present: SMTI NADIA REHMAN, AJS, JMFC, Nalbari

Dated:14.09.2022

PR Case No.662 of 2020

Mukalmua P.S. Case No.345/2020 u/s 498(A) I.P.C.

COMPLAINANT :	State of Assam
REPRESENTED BY	Mr. Hem Chandra Sarma, Ld. APP
ACCUSED	1. Md. Rahman Ali (A-1),
REPRESENTED BY	Md. Mainul Haque Ld. Defence Counsel

Date of Offence	N/A
Date of FIR	15-08-2020
Date of Charge sheet	19-08-2020

Date of framing charge	14-09-2022
Date of commencement of evidence	14-09-2022
Date on which judgment is reserved	N/A
Date of Judgment	14-09-2022
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	Rahman Ali	Not arrested	N/A	U/s-498(A) of IPC	Acquitted	N/A	N/A

JUDGMENT

1. In this case the accused person namely Md. Rahman Ali, S/O: Lt. Asu Ali, Village: Ghoga,

P.S.:Mukalmua, Dist:-Nalbari (Assam), stood for trial u/s 498(A) of the IPC.

2. Prosecution case as unfolded from the ejahar, dated 19.08.2020, lodged before the O/C, Mukalmua Police Station is that, about five years prior the informant Marjina Begum got married with the accused person and as a result of their wedlock she became mother of a female child. However, after the marriage the accused person used to tortured her physically and mentally on demanding dowary. That on 15.08.2020 at about 10:30 p.m., quarrel took place between her and the accused person on domestic matter and the accused person drove her out from the house and finding no alternative she took shelter at her parental house. Hence, this case was arisen.

3. The police has registered the case as Mukalmua P.S. case No.345/2020 u/s 498(A) I.P.C. and investigated the matter. On completion of investigation, police filed charge sheet against the accused Rahman Ali (A-1) u/s 498(A) I.P.C.

4. During trial, the accused Rahman Ali (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) I.P.C. and accordingly charge was framed. The contents of the charge was 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 Rahman Ali (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 Rahman Ali (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.?

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, Miss Marjina Begum who is the informant as well as the victim of the case.

10. P.W.1 namely Miss Marjina Begum, the informant as well as the victim deposed in examination-in chief that she is the informant of this case. She filed this case against her husband Rahman Ali. She legally married to Rahman Ali in the year of 2016. During the wedlock, she gave birth of a girl child namely Sumaya Akhtara. 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 and when she was at her mother's home, out of anger, she lodged FIR against her husband at Mukalmua P.S. However, later on, the matter was amicably settled between them and at present they are living happily in her husband's house and she has no grievance against the accused person and she does not want to proceed with this case and has no objection if the accused person acquitted from this case. Ext.P-1/PW-1 is the ejahar and Ext.P-1(1)/PW-1 is her signature.

Cross-examination of PW1 was declined by defence.

11. Now, in order to bring home an offence under section 498 A 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.

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. No single instance of dowry demand has been mentioned by the informant in her evidence deposed in court. It appears that due to some household matters, quarrel took place between the informant 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 Rahman Ali (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, sec 498(A) 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 Rahman Ali (A-1) is not held guilty of the offence punishable u/s 498(A) 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 14th 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	Miss Marjina Begum	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	Ejhar
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.