

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE,
SONITPUR, TEZPUR

GR. CASE NO. 3109/ 2017

U/S- 498(A) IPC

State

V.

Islamuddin

Present before : Kumari Arti, SDJM(S), Sonitpur, Tezpur
For Prosecution : Sri. R. Kr. Goswami
For Defence : Sri. P. Biswas, P.P. Boruah, S. Nath.
Date of Evidence : 13.09.19, 20.11.19.
Date of argument : 22.06.2020.
Date of Judgment : 06.07.2020.

JUDGMENT

1. The prosecution case in brief is that informant got socially married with accused's son i.e. Md. Ibadul Hussain almost 6 years ago and they have begotten a child aged about 4 years. That since after the marriage accused i.e. the father-in-law of the informant, started torturing informant both mentally and physically. That before 1 year of the lodging of this case, informant's husband went to another state for work and after that taking advantage of the fact accused Islamuddin snatched

away all of informant's ornaments and drove informant out from her in-law's house. That finding no other option informant took shelter in her parental house. Informant also complained that few days ago when her husband returned home, accused Islamuddin again sent her husband to another state out of a conspiracy. That again taking advantage in absence of her husband, accused started threatening informant and also asked her to leave his son by taking money to her satisfaction. Till then informant's husband and his family members even did not enquire about informant's well being. Hence, this case.

Compliance of Sec- 207 Cr.P.C.

2. Copies of relevant documents were furnished to the accused in accordance with Sec-207 Cr.P.C.

Offence explanation

3. During trial the particulars of offences u/s- 498(A) Indian Penal Code were read over and explained to the accused to which accused pleaded not guilty and claimed to face trial.

Evidence Adduced

4. Prosecution has examined three witnesses. Examination u/s-313 Criminal Procedure Code is recorded in accordance with law and accused declined to adduce any evidence in his support.

Points for determination

5. * Whether the accused Islamuddin had subjected the informant to cruelty by physically and mentally torturing her and thereby committed an offence punishable under Section 498(A) of IPC?

Discussion, Decision and Reasons thereof

6. PW1, Farida Khatoon (informant), in course of her deposition has stated that accused is her father-in-law. She stated that in the year 2017, one evening accused assaulted her physically in absence of her husband and drove her out from her in-law's house and since then she is residing in her parental house along with her son. Since, then she did not go to her in-law's house and accused also did not make any contact with her. She also stated that she heard from some people that her husband got married with another girl. She stated that her husband completely dislike her. She then filed the ejahar i.e. Ext. 1 and stated that Ext. 1(1) is her signature.

In course of her cross-examination she stated that FIR was written by someone near the police station. She stated that she filed two FIRs. She also stated that in Ext. 1, i.e. the ejahar there is no mention of torture by her husband and there is nothing against her husband in the ejahar. She stated that police did not interrogate her regarding Ext. 1 as police only interrogated her only about earlier FIR. She stated that the incident took place on 28.03.17 or 29.03.19. She stated that she did not mention the date in Ext. 1 or before police.

She denied the suggestion that accused did not assault her and accused did not drive her out on 28.03.19 from house. She stated that her husband was at Kerala at the time of the incident.

7. PW2, Abdul Rahim has recognized the informant and accused as his brother. He stated that the incident took place about 2 years ago. He stated that he does not know anything specific about the incident as he only knows that informant went to her mother's house two years ago but did not return yet.

His cross-examination was declined.

8. PW3, Majibur Rahman, has stated that informant is the wife of his uncle's son and accused is his uncle. He stated that he only knows that informant went to her mother's house about 3 years ago due to illness of her mother.

9. From the aforesaid evidence it reveals that PW1, the informant of this case has alleged about physical and mental torture to her by her father-in-law since after her marriage. The aforesaid testimony of informant is not supported by any of the prosecution witnesses. Prosecution witnesses i.e. the PW2, PW3 have recognized accused Islamuddin and the informant as father-in-law and daughter-in-law. But all of them have shown their ignorance regarding the alleged torture meted with by the informant at the hands of the accused person. This being the position, the prosecution case cannot be said to have been proved beyond all reasonable doubt..

10. Argument advanced by both the parties and the evidence on record indicate that accused in no manner are involved in the alleged incident and cannot be held guilty u/s- 498 (A) of Indian Penal Code.

11. Therefore, it would be highly unsafe to hold the accused guilty of commission of offence punishable u/s- 498 (A) Indian Penal Code.

12. Accordingly, the prosecution in the instant case could not discharge the heavy burden of proving the guilt of the accused for commission of the alleged offences beyond all reasonable doubt. Therefore, the onus has not shifted to the defence in the present case.

13. My discussion above propels me to decide both the points for determination in negative. Accordingly the accused Islamuddin is held not guilty for commission of the offences punishable u/s- 498 (A) Indian Penal Code.

ORDER

14. Accused, Islamuddin is acquitted of the offence punishable u/s- 498 (A) Indian Penal Code and he is set at liberty.

15. The bail bond shall be in force for six months from the date of the judgment delivered.

16. Given under my hand and seal of this court on 06th day of July, 2020.

KUMARI ARTI
SDJM(S), SONITPUR, TEZPUR

APPENDIX

Prosecution has examined three witnesses:-

PW1, Farida Khatoon

PW2, Abdul Rahim

PW3, Majibur Rahman

Defence side has not examined any witness.

Documents exhibited by the prosecution :-

Ext. 1- Ejahar.

Ext.2- Charge Sheet.

Ext.3-Sketch Map.

Documents exhibited by the defence -: Nil

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SDJM(S), SONITPUR, TEZPUR