

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR,
TEZPUR**

Present : **Smti Chitrali Goswami, A.J.S**

Judicial Magistrate First Class,
Sonitpur, Tezpur

GR case no: 50/2017

under Section- 498(A) of Indian Penal Code

State

vs

Dhananjay Nath

Advocate for the Prosecution	Mr AK Sahani.
Advocate for the Defence	Doli Ojha.
Date of recording evidence	28.01.2021
Date of hearing argument	28.01.2021
Date of judgment	03.02.2021

JUDGMENT

1. The prosecution case in a nutshell is that the instant case was initiated on the lodging of an ejahar dated 02.01.2017 by informant Jonali Devi. She alleged in the ejahar that she was married to her husband 4 years back. Her husband Dhananjay Nath physically and mentally assaulted her during the last 4 years. They have one daughter aged one year. On 29.12.2016, at 8 p.m, her husband uttered obscene language and caused an injury to her and threatened to cause her death. Hence the case.

2. On receipt of the ejahar, Tezpur P.S. Case No.17/17 dated 03.01.2017 under Sections – 498(A)/323/506 of the Indian Penal Code was registered and investigated by ASI Tirtha Baruah. On completion of the investigation, the I/O of the case submitted charge-sheet vide charge sheet no. 23/2017 dated 31.01.2017 against the accused person namely, Dhananjay Nath under Sections – 498(A)/ 323/506 of Indian Penal Code by ASI Tirtha Baruah.

3. On receipt of charge sheet, cognizance of offences under Sections – 498(A)/323/506 of Indian Penal Code was taken as per the provision prescribed under Section 190(1) (b) of Code of Criminal Procedure.

4. On their appearance, necessary copies were furnished to accused person as mandated under Section 207 Code of Criminal Procedure. Thereafter, charge under Section - 498(A) of the Indian Penal Code was framed and explained to the accused person to which he denied the charge and decided to stand for trial.

5. During trial, the prosecution side to prove its case examined one witness who is the informant of this case. Since no incriminating materials were found against the accused person, the statements of defence of the accused person under Section- 313 Code of Criminal Procedure was dispensed with.

6. I have heard the arguments of both sides.

7. **Points for determination:**

1. Whether the accused person being the husband of the informant, subjected the informant to cruelty, and thereby committed an offence punishable under Section - 498(A) of the Indian Penal Code?

DISCUSSIONS

8. In her examination-in-chief, PW1/informant Jonali Devi deposed that the accused is her husband. They were married 7 years ago according to hindu rites. They have a daughter aged 5 years. The incident occurred on 29.12.2016. There took place a quarrel between her and the accused person due to some misunderstanding. She lodged the case out of anger. She fell down on her own due to pushing and shoving. Now, they are residing together.

Exhibit 1 is her ejahar and Exhibit 1(i) is her signature

In her cross examination, she stated that she has no objection if accused person is acquitted.

Decisions and reasons thereof:-

09. From perusal of the evidence it is found that the instant case was instituted on the ground of misunderstanding between the informant and the accused person.

10. As such the prosecution side has failed to prove that the accused person namely, Dhananjay Nath has committed the said offence under Section – 498(A) of the Indian Penal Code against the informant beyond reasonable doubt.

ORDER

In light of the aforesaid discussion, I hold the accused person namely, Dhananjay Nath is not guilty of offence under Section – 498(A) of the Indian Penal Code. Hence, he is acquitted from the charge leveled against him. The accused person is set at liberty forthwith.

His bail bond is extended for a period of 6(six) months from the date of this order i.e. 03.02.2021 as per as Section 437(A) Code of Criminal Procedure.

The judgment is delivered in the open Court in presence of the accused person and his engaged Counsel.

Given under my hand and the seal of this court on this 03rd day of February, 2021.

Typed by me,

(Smti. Chitrani Goswami), AJS
Judicial Magistrate First Class,
Sonitpur, Tezpur.

(Smti Chitrani Goswami), AJS
Judicial Magistrate First Class,
Sonitpur, Tezpur

APPENDIX

Prosecution witnesses :

PW1- Jonali Devi

Prosecution Exhibits:

Exhibit 1 - Ejahar

Defence witness:

Nil

Defence Exhibit:

Nil

Court Exhibit:

Nil

(Smti Chitrani Goswami), AJS
Judicial Magistrate First Class,
Sonitpur, Tezpur