

**IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),
GOHPUR, SONITPUR**

P.R. CASE No. 184/2020

U/S 498 (A)/294/34 IPC

State

Vs

Sri Ratul Baruah & Anr.

.....Accused

PRESENT: Sri B. Acharyya, LL.M., A.J.S.

Sub-Divisional Judicial Magistrate (M), Gohpur, Sonitpur

Appearances:

For the Prosecution: Smti Barnali Chetia, Ld. APP

For the Defence: Sri Pankaj Borah, Ld. Adv.

Charge framed on: 04.02.2021

Date of Evidence: 26.02.2021

Date of Argument: 26.02.2021

Date of Judgment: 26.02.2021

J U D G M E N T

1. The Prosecution case in brief is that one Smti Rekha Baruah has filed an FIR on 05.08.2020 stating, inter alia, that she was married to accused Ratul Baruah in the year 2011 and since after marriage, accused Ratul started to torture her demanding dowry and suspect her being involved in illicit relation with others and harassed her both mentally and physically. But thinking about the future of her children, informant prevented herself from filing any case. Informant further stated that both the accused persons on several occasions vehemently assaulted her as she did not give birth to a

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son. Accused persons also tried to kill her by giving her poison. Informant further stated that on 03.08.2020 at about 7:00 P.M., her husband Ratul on instigation of others assaulted her in various parts of her body and accused Jiban Baruah tore her clothes making her naked. At that time her daughters raised hue and cry for which nearby people came and saved her life. Informant further stated that accused persons again on 04.08.2020 at about 7:30 P.M caught hold of her and assaulted her extremely. Accused Jiban Baruah told that he would kill her and caught hold of her neck and pull her down to the ground and hit her with a khukuri but said hit by khukuri inflicted blows on her 'mekhla' instead of hitting her neck. Informant raised hue and cry and nearby people came and once again saved her. Hence she filed this case.

2. O.C Gohpur P.S upon receiving the FIR registered a case vide Gohpur P.S Case No. 290/20 under Section 498(A)/354/307/294/506/34 of the Indian Penal Code. After investigation, the I.O laid down the Charge sheet under Section 498(A)/294/34 of the Indian Penal Code against accused persons Sri Ratul Baruah and Sri Jiban Baruah for trial. Smti Lilimai Baruah was not sent up for trial as sufficient material was not found against her during investigation.
3. On appearance before the court, accused persons were furnished with copies of relevant documents u/s 207 of the Cr.P.C and upon hearing both sides, charge u/s 498(A)/294/34 of the Indian Penal Code was framed which was then read over and explained to the accused persons and they pleaded not guilty and claimed to be tried.
4. The Prosecution examined 1 (one) witness who the informant of this case. Thereafter, Ld. APP has prayed to close the evidence of Prosecution and accordingly, prayer was allowed.
5. The recording of statement of the accused persons' u/s 313 of the Cr.P.C was dispensed with as there does not appear any incriminating material from the evidence on record.
6. Heard arguments put forward by the learned counsel for the accused persons and the learned APP for the State and also perused the evidence and materials on record.

POINTS FOR DETERMINATION:

7. The following Points have been taken up for determination and discussion in the case:

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- 1. Whether accused Ratul Baruah since marriage with Smti Rekha Baruah, inflicted cruelty upon Smti Rekha Baruah by committing mental and physical torture Sri Ratul Baruah alongwith Sri Jiban Baruah demanded dowry and on various occasions assaulted the informant and thereby committed offence punishable under Sections 498(A)/34 of the Indian Penal Code?**
- 2. Whether accused person Sri Ratul Baruah alongwith Sri Jiban Baruah since marriage abused Smti Rekha Baruah by using obscene language and thereby committed an offence punishable under Sections 294/34 of the Indian Penal Code?**

DISCUSSION, DECISION & REASONS THEREOF:

8. Smti Rekha Baruah as PW 1 had deposed that she filed the ejahar against both the accused persons present today being her husband and father-in-law. She further stated that in the year 2012 marriage took place between her and Sri Ratul Baruah. She further stated that she filed this case out of misunderstanding but now she has amicably resolved the dispute with the accused persons and is living happily in her matrimonial house. She does not want to proceed with this case. Ext. 1 is the ejahar and Ext. 1(1) is her signature.

In her cross examination PW 1 has stated that she does not have any objection if both the accused persons are acquitted in this case.

9. Upon appreciation of the evidence of the informant available in the record, it is seen that informant has resolved the matter with the accused persons who are her own husband and father-in-law. Moreover, informant has clearly stated that she does not want to proceed with the case any further and she is living peacefully with her husband at his house. It also appears that she has filed this case out of misunderstanding. In such a situation, as the informant did not implicate the accused persons, they are entitled to be acquitted.
10. In view of above discussion and considerations, it can be said that the alleged offences have not been established against the accused persons by the Prosecution and hence accused persons are entitled to be acquitted of the offences under Sections 498(A)/294/34 of the Indian Penal Code and aforesaid Points for determination of this case are decided in favour of the accused persons.

ORDER

Hence I hold that accused Sri Ratul Baruah and Sri Jiban Baruah are not guilty of committing offences punishable under Sections 498(A)/294/34 of the Indian Penal Code. Accordingly, they are acquitted from the offences punishable under Sections 498(A)/294/34 of the Indian Penal Code and are set at liberty forthwith.

The bail bond of the accused persons shall stand cancelled and surety shall be discharged after the expiry of 6 (six) months period from today.

The case stands disposed off on contest.

The Judgment is delivered in the open Court in presence of the accused persons and their Advocate. The Judgment is given under my hand and seal of this Court on this the 26th day of February, 2021.

(B. Acharyya)

SDJM (M), Gohpur, Sonitpur

Appendix:

Prosecution Witness:

PW 1: Smti Rekha Baruah

Documents Exhibited by Prosecution:

Ext. 1: Ejahar

Ext. 1(1): Signature of Informant

Defence Witness: Nil

Documents Exhibited by the defence: Nil

(B. Acharyya)

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