

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

P.R. CASE No. 267/2018

U/S 498(A) IPC

State

Vs

Sri Biswajit Neog

.....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 Debojit Dutta, Ld. Adv.

Charge Framed on: 03.11.2018

Date of Evidences: 06.11.2019, 05.02.2021

Date of Argument: 05.02.2021

Date of Judgment: 05.02.2021

J U D G M E N T

1. The Prosecution case in brief is that one Smti Hemashri Neog has filed an FIR on 01.06.2018 stating, inter alia, that on 29.05.2018 accused assaulted her without any reason and started to torture her mentally and demanded a vehicle from the parents of the informant. Hence this case was filed.
2. The O.C Gohpur P.S upon receiving the FIR registered a case vide Gohpur P.S Case No. 140/18 under Section 498 (A) of the Indian Penal Code. After investigation, the

State V. Sri Biswajit Neog

I.O laid down the Charge sheet under Section 498 (A) of the Indian Penal Code against accused Sri Biswajit Neog for trial.

3. On appearance before the court, accused person was furnished with copies of relevant documents u/s 207 of the Cr.P.C and upon hearing both sides, charge u/s 498 (A) of the Indian Penal Code was framed which was then read over and explained to the accused person and he pleaded not guilty and claimed to be tried.
4. The Prosecution examined 3 (three) witnesses including 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 person u/s 313 of the Cr.P.C was dispensed with as there does not appear any incriminating material from the evidences on record.
6. Heard arguments put forward by the learned counsel for the accused person and the learned APP for the State and also perused the evidences and materials on record.

POINT FOR DETERMINATION:

7. The following Point has been taken up for determination and discussion in the case:

Whether accused Sri Biswajit Neog on 29.05.2018 at Tengali Bori being the husband of informant Smti Hemashree Neog subjected her to cruelty by assaulting her physically and also demanded vehicle from her parents and started to harass her mentally and thereby committed offence punishable under Section 498(A) of the Indian Penal Code?

DISCUSSION, DECISION & REASONS THEREOF:

8. Sri Anil Saikia as PW 1 had deposed that he knows both the parties. Informant Hemashree Neog is the wife of accused Biswajit @ Bipin Neog. PW 1 further stated that he is the neighbour of Biswajit Neog. Social marriage occurred between them. Thereafter some misunderstanding took place between informant and accused and for the last one year informant has been residing at her parents house.

In his cross examination, PW 1 has stated that he heard both the informant and accused lived in a rented house for about two months at Gohpur. PW 1 further stated that in his house Biswajit resides along with his father and mother.

9. Sri Chakradhar Neog as PW 2 in his evidence deposed that he knows both the parties. Accused Biswajit Neog is his relative. Hemashree Neog is the wife of Biswajit. Their marriage took place about 5 (five) years ago. Hemashree Neog stayed in her husband's house for about 2-3 years. But for the last one year she has been staying with her mother. PW 2 further stated that some misunderstanding took place between both the parties. PW 2 also stated that he does not know why the case is filed.

In his cross examination, PW 2 has stated that there is no other case pending or filed against Biswajit earlier. He takes care of his parents. In reply to Court question PW 2 stated that accused Biswajeet Neog is a teacher and he teaches in a school at Gohpur.

10. Smti Hemashree Neog as PW 3 in her evidence deposed that she filed this case against the accused who is her husband. Their marriage took place in the year 2015. She also stated that after marriage accused started to torture her so she filed the case. But now she has amicably resolved the disputes with the accused and is living peacefully. She further stated that she do not want to proceed wit this case.

Cross examination of PW 3 was declined by the defence.

11. Upon appreciation of the evidences of the informant and Prosecution witnesses available in the record, it is seen that informant has resolved the matter with the accused person who is her own husband. Moreover, informant has clearly stated that she does not want to proceed with the case any further and she is living peacefully with the accused. In such a situation, as the informant did not implicate the accused person, he is entitled to be acquitted.
12. In view of above discussion and considerations, it can be said that the alleged offences have not been established against the accused person by the Prosecution and hence accused person is entitled to be acquitted of the offences under Section 498(A) of the Indian Penal Code and aforesaid Point for determination of this case is decided in favour of the accused person.

ORDER

Hence I hold that accused Sri Biswajit Neog is not guilty of committing offences punishable under Section 498(A) of the Indian Penal Code. Accordingly, he is acquitted from the offences punishable under Section 498(A) of the Indian Penal Code and is set at liberty forthwith.

The bail bond of the accused person 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 person and his Advocate. The Judgment is given under my hand and seal of this Court on this the 05th day of February, 2021.

(B. Acharyya)

S.D.J.M (M), Gohpur, Sonitpur

Appendix:

Prosecution Witness:

- PW 1: Sri Anil Saikia
PW 2: Sri Chakradhar Neog
PW 3: Smti Hemashree Neog

Documents Exhibited by Prosecution:

- Ext. 1: F.I.R
Ext. 1(1): Signature of Informant

Documents Exhibited by the defence: Nil

(B. Acharyya)

S.D.J.M (M), Gohpur, Sonitpur