

DISTRICT: SONITPUR
IN THE COURT OF MR. A. HAZARIKA, S.D.J.M.(M) AT BISWANATH CHARIALI.

P. R. C. No.49/2019

U/S 498A/34 I.P.C.

State of Assam

..... **PROSECUTOR**

-Vs-

1. Md. Sobhan Ali,

S/o. Late Ismail Ali,

2. Musstt. Gulpuri Begum,

W/o. Md. Sobhan Ali,

Both are R/o. Village- Diringpathar No.1,

P.S. Biswanath Chariali,

Dist. Biswanath, Assam.

..... **Accused Persons**

PRESENT: MR. A. HAZARIKA, S.D.J.M.(M) AT BISWANATH CHARIALI.

ADVOCATE FOR THE PROSECUTION: A.P.P, MS. B. UPADHAY,

ADVOCATES FOR THE ACCUSED PERSONS: MR. N. DAS.

CHARGE FRAMED ON: 26.02.2020,

EVIDENCE RECORDED ON: 09.02.2021,

ARGUMENT HEARD ON: 09.02.2021 AND

JUDGMENT DELIVERED ON: 09.02.2021.

JUDGMENT

- 1.** The prosecution case in brief is that one Musstt. Hosnara Khatoon lodged a complaint before Sub-Divisional Judicial Magistrate (M), Biswanath Chariali

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stating inter alia that she solemnized her marriage with accused Subhan Ali on 28.05.2012. After the marriage the complainant started residing with the aforesaid accused as husband and wife. The family life of the complainant and accused ran well up to few months. However, after that the aforesaid accused started torturing the complainant on demand of dowry. During conjugal life of the aforesaid accused and complainant 2 (two) children are born. On 20.09.2018 at about 7.00 A.M. the aforesaid accused along with accused Gulpuri assaulted the complainant and drove her out. Hence this case.

2. On receipt of the complainant my predecessor in office forwarded the same for registration of F.I.R. O/C Biswanth Chariali P.S. registered the same as Biswanth Chariali P.S. Case No. 293/18, U/S 498A/307/34 of I.P.C. and conducted investigation into the matter. On completion of the investigation, the police submitted charge-sheet against the accused persons U/S 498A/34 of I.P.C.
3. The accused person entered their appearance. Copies of the relevant documents were furnished to the accused persons in accordance with Section-207 Criminal Procedure Code. Formal charge U/S 498A/34 I.P.C. was framed. Substances of charge was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. During trial, the prosecution examined 4 (four) witnesses after which the prosecution evidence is closed. The statement defence of the accused persons as mandated by Section-313 Criminal Procedure Code are dispensed with due to lack of sufficient materials. Defence declined to adduce evidence.
5. Upon hearing both the parties and on perusal of the case record, the following point for determination has been formulated by this court:

i) Whether the accused persons being the husband and relative of husband of Musstt. Hosnara Khatoon in furtherance of their common intention soon after her marriage with her husband, tortured her on demand of dowry and lastly on 30.10.2018 at about 8.00 a.m. subjected her to cruelty and thereby committed an offence punishable u/s 498A I.P.C.?

6. I have heard the learned counsel on both sides and have gone through the evidence on records which have been outlined below.

EVIDENCE

7. **P.W.1** Musstt. Hosnara Khatoon, the informant deposed that her marriage was solemnized with accused Subhan Ali about 9 (nine) years ago. Accused Gulpuri is the 1st wife of her husband. After marriage some family discord was occurred in between her and accused. Hence, she lodged the complaint out of anger. After lodging of the complaint mutual understanding taken place between them and presently they are living separately with mutual consent. During cross-examination she deposed that she could not say what is written in the complaint petition and she does not have any objection if the accused persons are acquitted.
8. **P.W.2** Musstt. Rahima Khatoon, **P.W.3** Md. Pachen Ali and **P.W.4** Musstt. Sohida Khatoon deposed that they do not know what happened in the family life of the accused and informant

DISCUSSION, DECISION AND REASONS FOR DECISION:

9. **POINT FOR DETERMINATION No.(i):**

Now, in this instant case in hand the P.W.1 only deposed about some family dispute with her husband. Moreover, the witness revealed her ignorance about

the contents of F.I.R. during cross examination. Rest of the witnesses does not know as to what happened in the family life of informant and accused persons. Hence, in my considered opinion the contents of F.I.R. is not proved. No incriminating material at all revealed from the evidence of prosecution against the accused persons.

- 10.** It is the cardinal principle of criminal jurisprudence that the prosecution has to establish the guilt of the accused beyond reasonable doubt. In the instant case in hand the prosecution has measurably failed to prove that accused persons have committed an offence punishable U/s 498A/34 of I.P.C. Therefore I hold the accused persons to be not guilty for offence U/s 498A/34 I.P.C. and accordingly they are acquitted.

ORDER

Accused persons are hereby acquitted from the charge and set at liberty forthwith.

The bail bonds of the accused persons and their surety shall remain in force for six months from today as per section 437A Cr.P.C.

Given under my hand & seal of this Court on this 9th day of February, 2021.

DICTATED & CORRECTED BY ME

(AMARENDRA HAZARIKA)
SUB-DIVISIONAL JUDICIAL MAGISTRATE (M)
BISWANATH CHARIALI

APPENDIX

PROSECUTION EXHIBITS:

Nil.

DEFENCE EXHIBITS:

Nil.

WITNESSES FOR THE PROSECUTION:

P.W.1 Musstt. Hosnara Khatoon, the informant/victim,

P.W.2 Musstt. Rahima Khatoon,

P.W.3 Md. Pachen Ali and

P.W.4 Musstt. Sohida Khatoon.

DEFENSE WITNESSES :

Nil.

(AMARENDRA HAZARIKA)
SUB-DIVISIONAL JUDICIAL MAGISTRATE (M)
BISWANATH CHARIALI