

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

Tezpur, Sonitpur

PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS

Judicial Magistrate First Class,

Tezpur, Sonitpur

P.R. Case No. 870/18

State

Versus

Md. Habibur Rahman

(Under section 498 (A) IPC)

Charges framed on: 23.05.2019

Evidence recorded on: 23.05.2019

Statements recorded on: Dispensed with.

Arguments heard on: 23.05.2019

Judgment delivered on: 23.05.2019

Advocate for the Prosecution: Ms. Neeva Devi and Mr. Tapan Das

Advocate for the Accused: Md. Abdul Aziz

J U D G E M E N T

Prosecution Case in brief:

1. Filtering the unnecessary details the case of the prosecution in brief is that on 23.03.2018 at about 3.00 p.m., the accused person fought with the informant on some household issues and scolded her by uttering obscene slang words and languages. Thereafter the accused dragged the informant by her hairs and caught hold of her neck and also physically assaulted her which resulted in her injury. It is further alleged that the accused asked the informant to leave his house or else he will pour petrol over her and thereafter drove her

out from her matrimonial house. The accused even threatened to kill the informant. Hence this case.

2. The officer in charge of Dhekiajuli Police Station has registered a case as Dhekiajuli P.S. Case no.231/18 u/s 498 (A) of the Indian Penal Code. Thereafter, I/O has launched the investigation of this case. After completion of investigation, I/O has finally submitted charge sheet u/s 498 (A) IPC against the accused person.

3. Thereafter, cognizance has been taken and summon have been issued to the accused person. On appearance of accused person, necessary documents required u/s 207 Cr. P.C have been furnished to him. On perusal of the materials on record formal charges u/s 498 (A) IPC is read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. Prosecution, in support of its case has examined only one (1) witness.

5. Examination of accused person u/s 313 Cr. P.C. is dispensed with since no incriminating materials are found against them.

6. I have heard the arguments advanced by the learned counsel for the accused person and Ld. A.P.P. Perused the materials available in the case record. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

POINTS FOR DETERMINATION:

Point No 1: Whether the accused person on 23. 03.2018 at about 3.00 p.m., physically assaulted her by dragging her by the hairs and catching hold of her neck and also asked her to leave his house or else petrol would be poured over her and thereafter drove her out along with her son from her matrimonial house thereby committing an offence punishable u/s 498 (A) IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

7. Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case. **P.W-1 Musstt. Sahida Khatoon (informant)** deposed in her evidence in chief that the accused is her husband. There arose some altercations amongst them owing to some household issues and out of anger and misunderstanding she lodged this instant case against the accused person. P.W-1 further deposed that now they are residing together and are maintaining a cordial relationship and hence she no longer

intends to proceed with this instant case against the accused person.

8. During cross examination P.W-1 deposed that I hold no objection if the accused is acquitted from this instant case.

9. From the evidence of P.W-1, it reveals that, the informant is no more interested to proceed with the case against the accused person on the ground that the matter is amicably settled between them. It also reveals that the informant herself has refused to lead evidence against the accused person in support of the ejarah lodged in this case by her. Hence, I am of the considered opinion that prosecution has miserably failed to prove this case against the accused person. Thus, from the little evidence that has been brought before this court in the form of the statements made by the informant as P.W-1 it is seen that no offence has been made out against the accused person under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused person of any offence.

ORDER

10. In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused person namely Md. Habibur Rahman. Accordingly, accused person are acquitted of the charges u/s 498 (A) IPC levelled against him in this instant case.

11. Set the accused person at liberty forthwith.

12. The bail bond for the accused person is extended for a further period of six (6) months.

13. The case is disposed of on contest accordingly.

Given under my hand and seal on this 23rd day of May, 2019 at Tezpur, Sonitpur.

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Tezpur, Sonitpur

APPENDIX

A WITNESS OF PROSECUTION:

- 1 P.W-1: Musstt. Sahida Khatoon

B EXHIBITS OF PROSECUTION:

- 1 Exhibit.1: Ejahar
- 2 Exhibit 1(1): Signature of the informant

C WITNESS OF DEFENSE: NIL

D EXHIBITS OF DEFENSE: NIL

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Tezpur, Sonitpur