

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE:

BISWANATH CHARIALI:: SONITPUR

Present: Mrs. Priyanka Hazarika Nair

Sub Divisional Judicial Magistrate (M)

Biswanath Chariali, Sonitpur.

P.R Case No. 335/2018

u/s 498-A, 494 I.P.C

State

Vs.

Md. Hussain Ali.....Accused person.

Advocate for the Prosecution: Sri Badan Sharma, Ld. Addl. P.P

Advocate for the Defence: Sri Apurba Borah.

Evidence Recorded on: 17.05.2019.

Argument heard on: 17.05.2019.

Judgment delivered on: 17.05.2019.

J U D G M E N T

PROSECUTION FACTS IN BRIEF:

1. The prosecution story in brief is that the informant, Musstt. Isima Khatoon, had lodged an ejahar stating that the accused, Md. Hussain Ali, who is her husband, had on 22.09.2018, the accused person had subjected her to cruelty on pretext of his unlawful demands for dowry and drove her out of her matrimonial house. She further reported that the accused had married another woman. Hence this case.
2. On receipt of the ejahar, the Officer in Charge of the Gingia P.S registered a case vide Gingia P.S Case no. 114/2018 u/s 498-A/494 of the Indian Penal Code and thereafter the investigation culminated into the filing of the charge sheet /s 498-A, 494 IPC against the accused person.
3. The Court has complied with the requirement of furnishing copies of relevant documents to the accused person, as enshrined in Section 207 Cr.P.C. Thereafter, on a careful consideration of the case record and charge sheet and after hearing Learned Advocates of both the sides, it appeared that there were prima facie materials against the accused person u/s 498-A,494 IPC and hence the charge was accordingly framed. The charge was, thereafter, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

POINT FOR DETERMINATION:

4. Whether the accused person had subjected, Musstt. Isima Khatoon, to physical and mental cruelty on pretext of his demands for dowry from her and thereby committed an offence punishable u/s 498-A I.P.C?
5. Whether the accused person had remarried another woman during the continuance of his valid marriage with the informant and thereby committed an offence punishable u/s 494 IPC?

THE TRIAL:

6. The prosecution side examined one witness and the defence exercised their right to cross examine the said prosecution witness.
7. On closure of the prosecution evidence, the statement of the accused u/s 313 Cr.P.C was not recorded as there was no incriminating materials against him. The defence side refused to adduce any evidence on their behalf. Thereafter, the arguments forwarded by the Learned Advocates of both the sides were heard and the under mentioned findings were arrived at.

DISCUSSION, DECISION AND REASONS THEREOF:

8. P.W-1, Musst. Isima Khatoon, had deposed that she had filed the case against the accused person in a fit of rage as they had some domestic quarrel. She further deposed that now they are residing together peacefully and have amicably resolved their dispute. She deposed that she does not wish to proceed further with the case anymore. Ext. 1 is the ejahar and Ext. 1(1) and Ext. 1(2) are her signatures. She deposed that she has no objection if the accused is acquitted from the instant case.
9. **DECISION:** From the testimony of P.W-1, it is evident that the case culminated out of some trivial family misunderstanding. The victim has not testified that the accused had subjected her to any kind of cruelty. Therefore, there is no oral or documentary incriminating evidence against the accused person sufficient enough to establish the guilt of the charge levelled against him u/s 498-A, 494 IPC. The prosecution has, thus, miserably failed to bring home the charge against the accused person, Md. Hussain Ali.

ORDER

10. Keeping in mind the above discussion and decision, I hereby acquit the accused person, Md. Hussain Ali, from the charge u/s 498-A, 494 of the Indian Penal Code.

11. Adhering to Section 437-A Cr.P.C the bail bond of the accused person shall remain in force for six months.

12. The case is, accordingly, disposed of on contest.

13. The judgment is delivered and pronounced in open Court, today, the 17th day of May, 2019 under my hand and seal of this Court.

Smti. Priyanka Hazarika Nair
Sub Divisional Judicial Magistrate (M)
Biswanath Chariali, Sonitpur.

P.R Case No. 335/18

Dated: 17.05.2019

APPENDIX

(A) PROSECUTION WITNESSES:

P.W-1: Musstt. Isima Khatoon.

(B) PROSECUTION EXHIBITS:

Exhibit 1: Ejahar

(C) DEFENCE WITNESSES: Nil

(D) DEFENCE EXHIBITS: Nil

(Mrs. Priyanka Hazarika Nair)
Sub Divisional Judicial Magistrate (M)
Biswanath Chariali, Sonitpur.