

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE,

GOHPUR.

P.R.C 320/18

U/S 498 (A) I.P.C

State

Vs

Sri Sarbinder Singh,

S/o. Sri Kripal Singh.

Vill: Chandamari.

P.S. Halem, Dist: Biswanath, Assam.

..... Accused.

Present: Ashraf Ahmed Choudhury, SDJM (M), Gohpur.

For prosecution: Ms. Barnali Chetia, Ld. A.P.P

For defence: Sri. Chandra Kt. Baruah, Ld. Advocate.

Date of evidence: 03.09.19, 30.10.19, 19.02.21.

Argument heard on: 09.08.21.

Judgment delivered on: 13.08.21.

JUDGMENT

(1) The case of the prosecution in a nutshell is that the informant wife namely Smti. Sarbinder Kaur's marriage was solemnised with accused Sri. Sarbinder Singh on 13th December 2017 as per social customs and thereafter everything was smooth for the informant at her matrimonial house for about 01 month after her marriage. Thereafter, the accused person started mental torture upon the informant wife by levelling false accusation and defaming her and further demanded dowry from her and also subjected the informant to physical torture. The accused person also threatened to drive the informant wife out of her matrimonial house and further threatened to commit suicide by putting the blame on the informant. Again, on 06.08.18 at about 09:00 pm, the accused person hit the informant and strangled her neck with intent to kill her but somehow she rescued herself. Hence, the ejahar/FIR.

- (2) The FIR/ejahaar was registered as a case vide Halem P.S. Case No. 27/18, U/S 498 (A) I.P.C on 07.08.18 and on completion of the investigation, Charge-Sheet was submitted U/S 498 (A) IPC against the accused person, namely Sri Sarbinder Singh.
- (3) Accordingly, cognizance was taken and copies were served to the accused person and when particulars of offence under the aforesaid section of law was read over and explained to the accused person, the accused pleaded not guilty and claimed to be tried.
- (4) During the trial, the prosecution side has examined 06 (six) Prosecution witnesses, whereas, the case of accused is that of denial.

(5) Point for determination:

- (i). Whether the accused person being the husband of the informant wife, subjected her to physical and mental cruelty and also demanded dowry and thereby committed an offence punishable Under Section 498 A?

Decision thereon and Reasons for the decision:

- (6) In evidence, the informant as PW 1 namely Smti. Sarbindar Kaur deposed that she has lodged the ejahar against her husband. PW 1's marriage was solemnised with accused Sarbinder Singh on 13.12.2017. After one week of marriage, accused person and his father Kripal Singh demanded Rs. 50,000/- from PW 1 for purchasing a bike. PW 1's husband has beaten her, slapped her, pulled her hair and also physically abused her. They did not give proper food to PW 1. After 2 (two) months of their marriage, her husband gathered a group of people and informed that he will drive PW 1 out of the matrimonial house and also has forcibly sent PW 1 to her parental house on 03 occasions and on one occasion in the month of March have asked PW 1 to bring money from her parental house. On 06.07.2018, while PW 1 came to her matrimonial house at Chandamari; accused person did not allow PW 1 to enter the house. PW 1 informed the matter to the Gaon Bura on 06.07.2018 and a public meeting was arranged. At the said meeting, accused person informed his willingness not to maintain relation with PW 1 and also after the meeting, accused person has beaten PW 1 with sticks. Accused has also beaten

mother of PW 1, who came to save PW 1 from accused person's abuse. Accused person has restrained PW 1 and her mother in a locked room. PW 1 informed the matter to her brother by phone. Thereafter, police arrived and recovered PW 1. On the next day of incident, PW 1 lodged the ejahar.

- (7) In cross examination, PW 1 stated that her father-in-law's name is Kripal Singh who is alive. PW 1's marriage was solemnised socially at Nagaon Borkola Gurudwara and it was an arranged one. PW 1 cannot remember explicitly whether the allegation of accused slapping her, punching her is mentioned in the ejahar or not. PW 1 has neither mentioned in the ejahar nor stated to the police regarding allegation of demand of Rs. 50,000.00 by the accused person for buying a bike. Accused person has kicked PW 1 at her belly, while PW 1 was under menstruation. PW 1 went to her parental house 03 times and always being accompanied by her father-in-law. PW 1 has lodged another case against her father-in-law for outraging her modesty. Father-in-law of PW 1 has also lodged a case against PW 1 which is registered U/S 379/420 IPC and pending in this Court. About 10 persons gathered at the meeting. PW 1's father-in-law is a healthy person aged about 60

years and her husband is an able-bodied person. In-laws of PW 1 are financially sound and also having a tea garden near their house. It is not a fact that PW 1 and her mother took a loan of Rs. 1 lakh from Kripal Singh and being unable to repay the amount, PW 1 has lodged a false case against her father-in-law (Kripal Singh). PW 1 has received a maintenance order in a case under PWDV Act from a Court in Nagaon and in that case, sister of accused person was also impleaded as a party. PW 1 has not informed her matrimonial house neighbours about the torture met to her. PW 1 has denied the suggestions put to her.

- (8) In evidence, PW 2 namely Smti. Mandip Kaur deposed that the informant is her daughter and the accused is her son-in-law and their marriage was solemnised on 13.12.2017 as per social customs. After a week of marriage, daughter of PW 2 was tortured, beaten and harassed on ground of shortage of dowry. PW 2's daughter stayed at her matrimonial house for 4-5 months. PW 2's daughter came to her matrimonial house after 04 months of marriage with her father-in-law. PW 2's son-in-law threatened that he will commit suicide if PW 2's daughter returns to her matrimonial house. Her daughter was brought to her matrimonial

house through intervention of Goanburahs of Nawgaon and Gohpur. After 02 days, the in-laws of her daughter held a meeting and decided not to allow her daughter to stay at her matrimonial house. After the village meeting dissolved; accused person has beaten PW 2's daughter at about 09:00 pm. PW 2 was also beaten as she tried to save her daughter from beating and was also locked in a room. PW 2 informed her nephew Balwan Singh over phone. Later on, police recovered PW 2 and her daughter. On the next day, the instant case was lodged.

- (9) In her cross examination, PW2 stated that she and her daughter stayed at Chandamari for 2 days at the instance of local public. About 10 persons gathered at the village meeting. The village meeting was arranged by accused person and his father. It is not a fact that PW 2 stated before the police that in the village meeting both the parties have settled their dispute. It is not a fact that PW 2 stated to the police that the relation between the families are cordial. It is not a fact that PW 2 has not stated to the police that accused person has restrained them. Case lodged by the father of accused person is pending in this Court. Only accused person and his father stay in the house. None of the

neighbours have come to the place of occurrence on hearing hue and cry as they were being beaten. It is not a fact that PW 2 has taken a loan of Rs. 01 lakh from PW 1's father-in-law and being unable to return the money have lodged the case.

(10) In evidence, PW 3 namely Santosh Singh deposed that he knows the accused person but does not know the informant. About 06 months ago, Sarbinder Singh called PW 3 to his house at Chandamari alongwith the Gaonbura Padmeswar Saikia and Nanak Singh for a meeting to resolve some monetary matters between his wife and mother-in-law. PW 3 advised the parties to mutually settle the dispute.

(11) Cross examination of PW 3 was declined by the learned defence side.

(12) In evidence, PW 4 namely Padmeswar Saikia deposed that he knows both the parties. One day in last year, father of Sarbinder Singh called PW 4 for discussing issues pertaining to matrimonial dispute and some financial matters. PW 4 advised the parties to mutually settle the dispute.

(13) Cross examination of PW 4 was declined by the learned defence side.

(14) In evidence PW5 namely Nanak Singh deposed that he knows both the parties but cannot say anything regarding the incident of the case. He cannot say as to why the case was instituted.

(15) Cross examination of PW 5 was declined by the learned defence side.

(16) In evidence, PW6 namely Lalit Bhuyan deposed that he knows both the parties but cannot say anything regarding the incident of the case.

(17) Cross examination of PW 6 was declined by the learned defence side.

(18)(i). Upon appreciation of the evidence of the witnesses; firstly, it could be seen that in the ejahar, which is marked as Exhibit 1; the informant alleges that after the first month of her marriage with the accused person, she was tortured and beaten for dowry. It is also inter-alia stated therein that the first month of her marriage was pleasant without any disturbing issues. However, the informant as PW 1 as well as mother of informant as PW 2 in their

depositions as PW 1 and PW 2 respectively deposed that only after one week of marriage; relation was strained between the parties. In my view, such a disparity by the informant/PW 1 goes to show that either the contents of the ejahar or her deposition as PW 1 as regards the period of time spent cordially by PW 1 at her matrimonial house immediately after her marriage can be relied upon but such an inconsistency, in my opinion, has hit the credibility of the particular witness. In her evidence, PW 1 deposed that after one week of marriage, accused person and his father Kripal Singh demanded Rs. 50,000/- from her for purchasing a bike. However, in cross examination, PW 1 stated that she has neither mentioned in the ejahar nor stated to the police regarding allegation of demand of Rs. 50,000.00 by the accused person for buying a bike. The FIR is completely silent on this allegation. The evidence of PW 2, who is the mother of PW 1 also does not speak about any such allegation of demand of Rs. 50,000.00 by the accused person for buying a bike. Here too, such a serious allegation of dowry demand of a specific sum of money for a specific alleged purpose neither finds mention in the ejahar nor has been corroborated by evidence of any other witnesses and being so, it can be said that the aforesaid

allegation is not trustworthy for the aforesaid reasons. From the evidence of PW 1 and PW 2, it can be seen that both sides are already embroiled in multiple litigation between themselves.

(ii). From the evidence and other materials-on-record, it can be well said that the matrimonial relationship between both parties were strained and that village meetings were held by local persons to sort out the differences and settle the dispute; but such efforts failed to bear fruits. It can be well understood that any sort of unpleasant incident between spouses could hardly find an eye witness as mostly such incidents take place within the four walls of the house. However, none of the independent witnesses have deposed regarding any form of cruelty or torture met to the informant by the accused husband. Rather they have deposed about efforts via village meetings for reconciliation between the parties and that PW 2 in her cross examination stated that the village meeting was arranged by accused person and his father. PW 1 in her cross examination stated that she has not informed her matrimonial house neighbours about the torture met to her. PW 2 in her cross examination stated that none of the neighbours have come to the place of occurrence on hearing hue and cry as

they were being beaten. As local persons were already engaged in settling the dispute between the parties; and such being the situation, I do not see a reason as to why PW 1 would not inform any of the neighbours of her matrimonial house regarding any form of torture or cruelty met to her by the accused person. In the context of statement of PW 2 that none of the neighbours have come to the place of occurrence on hearing hue and cry as they were being beaten, it can be said that none of the independent witnesses have deposed anything regarding any hue and cry of the nature as stated by PW 2.

(iii). Moreover, both PW 1 and PW 2 have deposed that they were beaten by the accused person and locked in a room and that one Balwan Singh (cousin of PW 1 and nephew of PW 2) was informed over phone by PW 1 and PW 2 who in turn informed Police and managed to recover them through police search. However, said Balwan Singh has not been listed as a witness in the Charge Sheet nor examined as a witness by the prosecution side. Therefore, in my view, it is now explicitly clear that the matrimonial relationship between the parties were strained for which local people, at the instance of the accused person and his

father organised a meeting for resolving the dispute amicably. None of the witnesses barring the informant (PW 1) and her mother (PW 2) have deposed about any form of cruelty, torture and/or demand of dowry from the accused side towards the informant. Even the allegation of dowry demand of Rs. 50,000/- is self contradictory as discussed above.

(19) Also heard learned counsels for both sides. The submissions made by the counsels have been thoroughly considered.

(20) Therefore, considering the case in its entirety and for the reasons stated above, the aforesaid issue is answered in the negative as the allegations against the accused persons are not convincing enough as has been discussed in the preceding paragraphs.

(21) As a result of the foregoing discussions, the following Order is passed in this case.

ORDER

(22) Accused person, namely, Sri. Sarbinder Singh stands acquitted in this case as prosecution side has failed to prove the guilt of the accused person beyond all reasonable doubts.

(23) The accused person be set at liberty forthwith, if in custody and not wanted in any other case.

(24) Judgment and Order is pronounced in open Court today in presence of the accused person.

(25) Bail Bond to be discharged in accordance with law, after a period of 06 (six) months.

Given under my hand and seal of this Court on this the 13th day of August, 2021.

Accordingly, case disposed off.

A. A. Choudhury,

Sub Divisional Judicial Magistrate (M) ,Gohpur.

APPENDIX

Prosecution Witness:

- PW 1 – Sarbinder Kaur.
- PW 2 – Mandip Kaur.
- PW 3 – Santosh Singh.
- PW 4 – Padmeswar Saikia.
- PW 5 – Nanak Singh
- PW 6 – Lalit Bhuyan.

Prosecution Exhibits: NIL

Exhibit 1- Ejahar.

Defence Witness: NIL

Defence Exhibits: NIL

Court Witness: NIL

A.A. Choudhury,
SDJM (M), Gohpur.