

IN THE COURT OF JUDICIAL MAGISTRATE, 1<sup>ST</sup> CLASS, SONITPUR

G.R. CASE NO: 2734/11U/S 498(A) IPC

PRESENT: : K. K. PATHAK, A.J.S

PARTIES : *State*

-V-

*vsit case*



-----ACCUSED

EVIDENCE ON : 06.12.12, 17.12.12, 07.02.13

S/D ON : 12.02.13

ARGUMENTS ON : ]  
JUDGMENT ON : ] 14.02.13

LAWYERS : A.P.P (you state)  
1. Wansari (you need).

*[Signature]*  
Judicial Magistrate  
1st Class, Tezpur

In this case, an fir(ext 1) was lodged by one Swarna Das before the o/c Tezpur p.s. alleging that her husband and in laws tortured her mentally and physically. Based on the fir, Tezpur ps case no 1404/11 u/s 498(A)/34 ipc was registered and after investigation, c/s was submitted against accused Ajit Das u/s 498(A) ipc. Final report was submitted against the other fir named accused which was 'allowed' by the CJM.

In respect of Ajit Das, copies were furnished. Charge u/s 498(A) ipc was framed against the accused. He denied the charge and claimed to be tried. Prosecution adduced evidence. s/d of the accused was recorded. Defence did not adduce evidence . Arguments were heard.

**POINT FOR DETERMINATION:**

1. Whether the accused being the husband of the informant /victim subjected her to cruelty within the meaning of sec 498(A) ipc ?

**DECISION AND REASONS:**

The prosecution examined the victim/informant, Swarna das(pw1), Nafiza Begum @Nabija (pw2), Minu sarma(pw3), Dinesh das (pw4) and the i/o Dhani Ram Deka (pw5) in support of its case.

Out of the examined pws, I find that pw 2 stated that pw1 informed her that she was tortured by accused but she had not seen 'marpit.' Pw 1 never stated that she informed pw3 regarding any incident. So evidence of pw 2 is hearsay and cannot be acted upon.


Pw3 was declared hostile by prosecution. She stated that there were only petty quarrels and pw1 suspected accused unnecessarily and over this there was quarrel. There is nothing incriminating in her evidence against the accused. Her evidence doesn't help the prosecution.

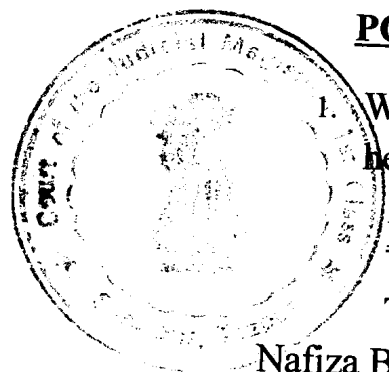
Pw 4 only deposed about 'bichar'. There is nothing in his evidence to suggest any wrong doing by the accused.

So, after consideration, evidence of pw 2, 3 and 4 is not found helpful to the prosecution case.

That leaves me with the evidence of pw1(the informant/victim). She deposed that during pregnancy, she was tortured on various occasions by accused. She also stated that accused asked her to bring money from her father by mortgaging land for purchasing car. When money was not given she was beaten and thrown out. She was physically and mentally tortured. It was also stated that on Dec'11 when she asked accused about late coming, she was assaulted. She lodged ext 1/fir.

Perusal of FIR/Ext 1 shows that there is not a whisper regarding any demand for money. So the aspect regarding demand for dowry has been projected for the first time in court and cannot be considered. That apart the aspect regarding torture appears to be an omnibus statement . There is nothing in

  
Judicial Magistrate  
1st Class Tezpur



the evidence to show as to what was the nature of the torture. Mere bald and omnibus statement regarding torture or petty quarrels does not make out a case u/s 498(A) ipc. Evidence of the i/o is only formal in nature . The evidence considered as a whole and after separating chaff from grain does not make out and prove a case u/s 498(A) ipc to the hilt.

Considering the evidence in its entirety, I do not find the charge u/s 498(A) IPC against the accused to be proved beyond doubt. Accused is accordingly acquitted of the charge and set at liberty.

Bail bonds stand cancelled.

Given under my hand and seal on this the 14<sup>th</sup> day of February 2013



JMFC, SONITPUR: TZP  
Judicial Magistrate  
Ist Class, Tezpur