

DISTRICT: GOALPARA

IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, GOALPARA

G.R. CASE NO. 986/2014

U/S. 498(A) IPC

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: SRI AZGOR ALI MONDAL

PRESENT: SMTI. S. CHANDA, LL.M., AJS.

ADDL. CHIEF JUDICIAL MAGISTRATE, GOALPARA.

APPEARED FOR:

THE STATE: SMTI. SHRABANI GUHA, LEARNED ADDL. PUBLIC PROSECUTOR.

SRI DIPJYOTI DAS, LEARNED ASSTT. PUBLIC PROSECUTOR.

ACCUSED: SRI BILLAL HUSSAIN, LEARNED ADVOCATE.

DATES OF:

CONSIDERATION ON CHARGE: 17-03-2016.

EVIDENCE: 30-03-2019, 06-05-2019.

ARGUMENT: 22-05-2019.

JUDGMENT: 03-06-2019.

J U D G M E N T

1. Smti. Karimon Nessa of Village: Bherbhery initiated this instant case by filing a written *complaint* before the Learned CJM, Goalpara on 19-04-2014 with a prayer to forward it to the O/C, Lakhipur P.S. The prayer was allowed. The case was registered as Lakhipur P.S. FIR No.175/2014 under section 498(A)/34 IPC against the accused Sri Ajgor Ali Mondal and others and investigated into.
2. The prosecution case in brief is that, the informant got married to the accused Sri Ajgor Ali about 10 years ago. They have started their conjugal life in the accused's house. A few days after her marriage, the accused started torturing her demanding Rs. 50,000/-. A baby girl was born to them. About one year ago her husband got married to someone else. About one month ago he beat her up and thrown her out of the matrimonial home. Hence, the case.
3. On completion of investigation, police filed a charge-sheet against the accused Sri Azgor Ali Mondal u/s. 498(A) of IPC.

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4. After securing appearance of the accused he was allowed to go on Court bail. Relevant documents of the case were furnished to him. Upon perusal of materials on record and after hearing both sides, my Learned Predecessor-in-office has framed a formal charge u/s. 498(A) of IPC against the accused, which was read over and explained to him to which he has pleaded not guilty and claimed to be tried.
5. The prosecution in support of its case examined three witnesses. The accused person was examined under section 313 CrPC. The defence case is total denial. The defence side has not adduced any witness in support of their defence.
6. I have heard the argument advanced by the Learned Counsels for both sides.
7. Upon hearing and on perusal of the record I have framed the following point for determination:

(i) Whether the accused being the husband of the informant subjected her to physical and mental cruelty demanding an amount of ₹50,000/- and thrown her out of her matrimonial home?

DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:

8. I have gone carefully through the entire evidence and the materials placed before me. The prosecution side has failed to produce the informant as well as alleged victim Smti. Karimon Nessa in this case. But her father Sri. Kurpan Ali is examined as Pw-1 and he has stated on oath that, accused Ajgor Ali is the informant's husband and there was some dispute in their marital relation. He has also stated that the informant went missing 5/6 months ago and they have intimated police. He has also stated that, he is not willing to proceed with this case. Defence side declined to cross examine him.
9. Another witness Sri Salim Uddin (**Pw-2**) has stated on oath that, informant is Ajgor Ali's wife and when Ajgor Ali got married for the second time the informant returned to her father's house and now for about last seven months she is missing. He has stated that they have mutually settled the matter once and the informant returned to her husband's house; but her husband again tortured her and she took

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shelter in her father's house. During cross examination he has admitted that he has not seen the incident of physical torture and heard those from the informant.

10. Sri Safiqul Islam (**PW-3**) has stated on oath that, both sides are married to each other, there was a quarrel between them and informant returned to her father's house. He has also stated that he does not know the reason for the quarrel and he does not know where the informant is residing now. Defence side has declined to cross examine him.

11. Now, on going through the entire material placed before me it appears that, the prosecution side has secured to examine three witnesses including informant's father (Pw-1) in this case. All the witnesses have stated that the parties to this case are married to each other, there was a dispute between them, but they have no personal knowledge on the reason for their family dispute and now since last a few months the informant went missing. Her father has further stated that, he is not willing to proceed with this case. Hence, it appears that, there is enough material that the marital life of informant with accused was not very peaceful; there is no material to prove the allegations of torture

12. I, therefore, find that the prosecution side has failed to establish the guilt of the accused. Accordingly, the accused Sri Azgor Ali Mondal is held not guilty of offence punishable under section 498(A) of IPC, and he is acquitted and set at liberty forthwith.

13. Bail bond furnished on behalf of the accused shall remain in force for a further period of six months.

14. Given under my hand and seal of this Court on this 3rd day of June, 2019.

S. CHANDA
ADDL.C.J.M. GOALPARA.

APPENDIX:

PROSECUTION EXHIBIT:

NONE

DEFENCE EXHIBIT:

NONE

PROSECUTION WITNESSES:

1. SRI KURPAN ALI.
2. SRI SALIM UDDIN.
3. SRI SAFIQUL ISLAM.

DEFENCE WITNESS:

NONE

DICTATED AND CORRECTED BY ME,

S. CHANDA, ADDL. C.J.M. GOALPARA.

TRANSCRIBED BY SMTI . J. CHAKI (STENOGRAPHER).