

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA:

TINSUKIA

G.R. CASE NO: 233OF 2017@ PRC CASE NO: 260 OF 2017

U/Sec 498A/494 OF IPC

STATE OF ASSAM

..... PROSECUTOR

-Vs.-

ANUP PANDEY

S/O: LATE RAM NATH PANDEY

ADDRESS: DEHING TEA ESTATE LINE NO. 10

P.S.: MARGHERITA, DIST: TINSUKIA, ASSAM

.....ACCUSED

PRESENT: SALEH AHAMMAD, LL.M. AJS

SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA,

TINSUKIA

FOR THE STATE: Mr. BAPPA PURKAYASTHA, LEARNED ASST.PP

FOR THE ACCUSED: Mr. P.P. HAZARIKA, LEARNED DEFENCE COUNSEL

CHARGE FRAMED ON: 13/03/19

EVIDENCE RECORDED ON: 31/07/19

ARGUMENT HEARD ON: 31/07/19

JUDGMENT DELIVERED ON: 06/08/19

JUDGMENT:

1. The genesis of this case had its roots with the lodging of the First Information Report (in short as FIR) wherein the informant has alleged that she was married with the accused on 16/10/11. After her marriage it was her mother in law who had used abusive language against her. The informant has stated that her mother in law used to pass remarks that she couldn't bring dowry from her home and she should go to her parent's home and her son will marry new one. She was assaulted by her husband and thereafter she gave birth two children. It was her husband who eloped with her sister on 06/04/17. She came to her parent's home on 09/04/17. She saw

on 17/04/17 that her husband married her sister and she was at her matrimonial home. Finally she lodged this case. The criminal law was set in motion with the lodging of the FIR.

2. In this case the O/C of MARGHERITA PS registered as MARGHERITA PS case No. 164/2018 U/sec 498A/366/494 of IPC and the case was entrusted to S.I. NRIPEN CHANDRA BORAH for investigation and finally after completion of investigation the charge sheet was submitted by him against the accused person U/sec 498 A/494 of IPC.
3. In this case the accused persons appeared before the court and they were allowed to go on bail. As per section 207 of CrPC & the charge U/sec 498A/494 of IPC was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried. In this case the prosecution has adduced as many as one PW to prove the case. In this case the statement of the accused person is hereby dispensed with. The defence does not want to adduce any DW's from their side.
4. I have heard arguments of the learned defence counsel and the learned Asst. P.P. I have perused the evidence on record and scrutinized the evidence on record.
5. After hearing both sides the following are determined point of determination.

POINT OF DETERMINATION

POINT FOR DETERMINATION NO.1:

Whether the accused person being the husband of the informant & subjected her to cruelty (physically and mentally) and demanded dowry by harassing her with a view to coercing her to meet an unlawful demand for any property or valuable security on filthy grounds and being unable to bring articles from her home and assaulted her and thereby committed an offence under section 498A IPC?

POINT FOR DETERMINATION NO.2:

Whether the accused person during the existence of the first marriage and after having his wife living married another woman and after knowing that the marriage is void and thereby committed an offence under section 494 of IPC?

Discussion, Decision and Reasons there on:

For the sake of convenience both the points are clubbed together:

6. PW1 is the informant of this case. The accused is her husband. The incident took place due to her sister. The case was lodged by her due to misunderstanding. The

accused didn't had any fault on his part. She is living happily with her husband and children. She doesn't have any objection if the accused is acquitted from this case. EXT 1 IS THE FIR. She had put thumb impression in the FIR.

I have heard the arguments of the learned Asst.PP & the learned defence counsel.

7. From the perusal of the evidence on record it appears that they have amicably settled the matter now. PW-1 i.e. the informant doesn't want to proceed with this case. It has been admitted by PW1 that she has no objection if the accused person is acquitted from this case. The case was lodged due to misunderstanding.
8. In the light of the above discussion & reasons, I am of the opinion that the prosecution has failed to prove the case against the accused person beyond reasonable doubt. Hence, the accused person deserves to be acquitted of the charge leveled against him.

ORDER

In view of the above discussions and reasons it is held that the prosecution has failed to prove the charges leveled against the accused person & as such the accused person is acquitted of the charge leveled against him under section 498A/494 of IPC and he is thereby set at liberty.

Make necessary entry in the judgment register.

Given under my hand and seal of this court on this the 6th day of AUGUST, 2019 at MARGHERITA COURT.

SALEH AHAMMAD

SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),

MARGHERITA, TINSUKIA

APPENDIX:

WITNESSES FROM THE PROSECUTION SIDE:

PW1: SWAPNA PANDEY

WITNESSES FROM THE DEFENCE SIDE: NIL

PROSECUTION EXHIBITS:

EXT 1 IS THE FIR

DEFENCE EXHIBITS: NIL

SALEH AHAMMAD

SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),

MARGHERITA, TINSUKIA