

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

PRESENT: -SUNDEEP KASHYAP DAS, LL.M, ASSAM JUDICIAL SERVICE

DATE OF JUDGMENT: -23.05.2022

CASE NO-PRC 34 of 2021

COMPLAINANT	STATE OF ASSAM
REPRESENTED BY	B. PURKAYASTHA ASSISTANT PUBLIC PROSECUTOR FOR THE STATE
ACCUSED	1. NANDAN MALAKAR (A1) S/O-NITAI MALAKAR 2. SUKLA MALAKAR (A2) W/O-NITAI MALAKAR 3. CHAMPA MALAKAR (A3) D/O-NITAI MALAKAR R/O-LEDO BAZAR BASTI P.S-MARGHERITA DISTRICT-TINSUKIA
REPRESENTED BY	GANESH DEBNATH ADVOCATE FOR THE ACCUSED

DATE OF OFFENCE	-
DATE OF F.I.R	02.7.2019
DATE OF CHARGE-SHEET	31.07.2019
DATE OF FRAMING OF CHARGES	23.05.2022
DATE OF COMMENCEMENT OF EVIDENCE	23.05.2022
DATE ON WHICH JUDGMENT IS RESERVED	23.05.2022
DATE OF JUDGMENT	23.05.2022
DATE OF THE SENTENCING ORDER, IF ANY	NO

Rank of the Accused	Name of accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial
1	NANDAN MALAKAR	-	-	S. 498-A IPC	Acquitted	-	-
2	SUKLA MALAKAR	-	-	S. 498-A IPC	Acquitted	-	-
3	CHAMPA MALAKAR	-	-	S. 498-A IPC	Acquitted	-	-

JUDGMENT

BRIEF FACTS OF PROSECUTION'S CASE

1. The informant, **SUSHMA MALAKAR** has lodged an F.I.R stating inter alia that after her marriage with her husband, **A1**. After her marriage, he along with co-accused, **A2** and **A3** used to torture her mentally and physically. Hence, the informant filed this instant case for taking necessary action.

INVESTIGATION

2. On receipt of *ejahar*, the police registered a case *Margherita* P.S 183/2019. After completion of investigation, the police submitted a charge-sheet for the offence under section 498-A of Indian Penal Code (hereinafter referred to as 'IPC') against the accused persons A1, A2 and A3.

APPEARANCE OF THE ACCUSED PERSONS

3. The accused persons were called upon to enter trial and upon their appearance, copies of relevant documents u/s 173 Cr.P.C were furnished to them in compliance with section 207 Cr.P.C.

CHARGE

4. Upon considering the relevant documents u/s 173 Cr.P.C and police report, charge was framed u/s 498-A/34 of IPC against the accused persons to which they pleaded not guilty and claimed to be tried.

WITNESSES EXAMINED AND DOCUMENTS EXHIBITED

5. The prosecution has examined 1 (one) witness and exhibited 1 (one) no of documents.

STATEMENT DEFENCE OF THE ACCUSED u/s 313 Cr.P.C

6. The examination of the accused persons have been dispensed with as there are no incriminating materials against them.

POINTS FOR DETERMINATION

*Whether, the accused persons, in furtherance of their common intention, being the husband and in-laws of the informant **SUSHMA MALAKAR** subjected her to cruelty to wit a wilful conduct which was of such a nature as is likely*

to drive her to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of her; or harassed her with a view to coercing her or any person related to her meet any unlawful demand for any property or valuable security on account of failure by her or by any person related to her to meet such demand and thereby committed an offence punishable u/s 498-A/34 of IPC?

DISCUSSION, DECISIONS AND REASONS THEREOF

EVIDENCE OF P.W.1 [THE INFORMANT cum VICTIM]

7. P.W.1, Smti **SUSHMA MALAKAR** has deposed that she is the informant cum victim of this case. She has stated that she had lodged the case out of certain misunderstanding. At present, she does not want to continue the case as she had ended her marriage with divorce. Defence has declined to cross-examine the said witness.

JUDICIAL DETERMINATION

8. The standard of proof in criminal law is to prove the guilt of the accused beyond reasonable doubt. Basic allegations against the accused reveals from the brief facts of

prosecutions' case as stated above. Question arises whether prosecution has been able to discharge the burden?

9. Prosecution manage to examine the primary witness in this case, i.e. the informant cum victim. From the evidence that has been brought on record, it is seen that no offence has been made out against the accused person under any section of law. Both parties are not at loggerheads anymore and further bear no animosity towards one another.

DECISION

The above point is decided in negative and goes in favour of the accused persons

ORDER

In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused persons A1, A2 and A3 has committed the offence under section 498-A/34 of IPC as alleged and as such they have been acquitted of the charge under said section of law and they be set at liberty forthwith.

Their bail bonds shall remain in force for another six months from today.

This judgment is given under my hand and seal of this court on this 23rd day of May, 2022

The case is disposed of on contest.

SUNDEEP KASHYAP DAS

SUB-DIVISIONAL JUDICIAL MAGISTRATE (M)

MARGHERITA

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. PROSECUTION:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
PW1	<i>SUSHMA MALAKAR</i>	INFORMANT cum VICTIM

B. DEFENCE WITNESS, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
-	-	-

C. COURT WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
-	-	-

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. PROSECUTION:

Sr. No	EXHIBIT NUMBER	DESCRIPTION
1	Exhibit P-1/PW1	FIRST INFORMATION REPORT

B. DEFENCE

Sr. No	EXHIBIT NUMBER	DESCRIPTION
-	-	-

C. COURT EXHIBITS:

Sr. No	EXHIBIT NUMBER	DESCRIPTION
-	-	-

D. MATERIAL EXHIBITS:

Sr. No	EXHIBIT NUMBER	DESCRIPTION
-	-	-

SUNDEEP KASHYAP DAS

SUB-DIVISIONAL JUDICIAL MAGISTRATE (M)

MARGHERITA