

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS, HATSINGIMARI, DHUBRI

**G. R. CASE NO: 913/2013
U/S. 498 (A) I.P.C**

**STATE
VS
Mokbul Hussain**

**PRESENT: PRASENJIT DAS,
JUDICIAL MAGISTRATE FIRST CLASS,
HATSINGIMARI, DHUBRI**

APPEARANCES:

**R.ISLAM, Astt. P.P FOR THE STATE
Khalilur Rahman, ADV., FOR THE DEFENCE**

DATE OF EVIDENCE: 12-09-2017

DATE OF ARGUMENT: 12-09-2017.

DATE OF JUDGEMENT: 14-09-2017.

JUDGEMENT

1. The brief facts of the prosecution case as is revealed from the Ejahar (Ext-1) is that the informant/ Juleka Khatun was regularly physically and mentally tortured prior to the date of filing of ejahar for dowry of Rs 50,000/- by the accused/husband and his parents and was driven out of matrimonial house along with minor child on 17.7.13. On being driven out she is living in her father's house. As

such an Ejahar was filed and on receipt of the said Ejahar, Sukhchar P.S Case No 90/13, u/s 498(A)/34 I.P.C was registered vide GDE No 462 dated 29.7.13.

2. The police took up the investigation and on completion of investigation submitted a charge sheet u/s 498 (A) I.P.C against only the husband/ accused/ Mokbul Hussain, and sent him for trial.

3. Vide order dated 17.5.17 a charge under section 498 (A) I.P.C was framed against accused and the contents of the said charge was read over and explained to him to which he pleaded not guilty and claimed to be tried. Accordingly, the trial of the case against the accused commenced.

4. During the trial, the prosecution side adduced its evidence and only one witness, was examined in support of the prosecution case, who is the informant/victim of this case and after the prosecution evidence was closed, as it produced no more witness, the examination of the accused person u/s 313 Cr.P.C was dispensed considering the nature of evidence. The Defence adduced no evidence.

5. Heard argument advanced by the learned. Astd.P.P. and learned Defence counsel and perused the evidence on record.

6. FOLLOWING POINT HAS BEEN SET UP FOR DETERMINATION

- (a) Whether the accused/Mokbul Hussain, committed the offence under section 498 (A) I.P.C against the Informant/Wife?**

7. DISCUSSION ON THE POINT FOR DETERMINATION AND DECISION ARRIVED THEREON WITH REASONS:

7.1. Evidence of PW1, the informant of this case who filed the Ejahar (Ext-1), reveal that she deviated from the facts narrated by her in the Ejahar and failed to corroborate and substantiate the prosecution story. According to PW1, she filed the Ejahar out of misunderstanding over a family dispute and she is now living with the accused and has three children. Thus, from the evidence on record it is found that the testimony of PW 1 failed to bring any incriminating evidence against the accused person and the role played by him. The prosecution side did not examine any other witness thereafter. The informant did not state any incriminating evidence against the accused persons.

7.2 The burden of proof is on the prosecution to prove its case beyond all reasonable doubts and considering all the evidence on record the prosecution has nothing on record to establish its case and as such the charge levelled against the accused person was not established beyond all reasonable doubts by adducing cogent evidence. Considering all I deemed it fit to acquit the accused person, Mokbul Hussain, and as such he is not found guilty of

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offences u/s 498 (A) I.P.C and he is set at liberty forthwith. The bail bonds of the accused persons shall remain in force for a period of 6 months.

ORDER

The case of the prosecution has no merit as it has nothing on record to produce sufficient incriminating evidence against the accused person Mokbul Hussain and accordingly he is acquitted and set at liberty forthwith.

The bail bonds against the accused persons shall remain in force for a period of 6 months in view of section 437-A Cr.P.C.

Given under my hand and seal of this Court on this the 14th day of September 2017.

Prasenjit Das, A.J.S

APPENDIX

A. Prosecution Exhibit:

- Ext-1: FIR.
- Ext-1(1): Signature of Informant.

B. Defence Exhibit: Nil.

C. Exhibit produced by witness: Nil.

D. Prosecution Witnesses:

(a) P. W. 1: Juleka Khatun/ Informant

E. Defence Witnesses: Nil.

F. Court Witness: Nil.

Prasenjit Das, A.J.S