

**HEADING OF JUDGMENT IN SESSION CASE**

**IN THE COURT OF ADDITIONAL SESSION JUDGE BILASIPARA**

**Present:- Smti S. Bhuyan, AJS**

**Additional Session Judge, Bilasipara**

**Session Case No-139 of 2016**

**u/s 498(A)/307/506 IPC**

**STATE**

**Versus**

Ekram Ali Mollah @ Mondal

Accused person

(Committed by Smti P. Shyam, then Ld. SDJM (M) Bilasipara in GR case No-144/16 u/s 498(A)/506/307 I.P.C.)

**Advocate appeared:-**

For the state:-Mr. T. Kr. Bhattacharya, Addl. P.P

For the accused:- Mr. A. Rahman , Advocate.

Date of institution of the case :- 31-01-16

Date of commitment :- 26-07-16

Date of Framing charge :- 04-10-16

Date of prosecution evidence :- 24-08-17, 16-11-17

Statement of accused recorded on :- 20-11-17

Date of Argument :- 20-11-17

Judgment delivered :- 07-12-17

## **JUDGMENT**

### **Prosecution Case**

1. Prosecution case as unfurled from ejahar is that informant's daughter Saleha Yasmin got married with accused Ekram Ali Mollah in the year 1999. Soon after marriage accused started physical torture and mental torture on informant's daughter but informant's daughter lead conjugal life with accused bearing all those torture and during that period accused demanded money and wanted to marry another girl but as informant failed to fulfill his demand, on 31-01-16 at about 08.00 am accused assaulted informant's daughter with lathi on her various parts of body and drove her out from her matrimonial house. To this fact informant lodged ejahar against accused Ekram Ali Mollah before Bilasipara P.S.

### **Investigation**

2. Officer-in-charge of Bilasipara police station on receiving the ejahar from Abdul Mojid @ Khoka registered a police case vide no Bilasipara police case No. 97/16 under Section 498(A)/506 I.P.C. and A.S.I A.R. Mondal was entrusted to conduct the investigation of the case and after completion of investigation IO submitted charge sheet against the accused person named herein above u/s 498(A)/506/307 I.P.C.

### **Committal**

3. On receipt of the charge sheet, then learned SDJM (M) Bilasipara, took cognizance and after furnishing necessary copies to accused person committed the case before the Learned. Sessions Judge, Dhubri for trial and Learned Session Judge, Dhubri made over the case to this court for trial.

### **Charge**

4. My then Ld. Predecessor after hearing learned counsel for both sides and perusal of material on record framed charge u/s 498(A)/307/506 IPC against the accused person Ekram Ali Mollah @ Mondal and when

charges read over and explained to the accused person he pleaded not guilty and claimed to be tried.

### **Trial**

5. In order to prove the prosecution charges against the accused person, prosecution adduce evidence of all together 5 number of witnesses and exhibited 1 no of document. PW- 1 Abdul Mazid @ Khaka, PW-2 Saleha Yesmin, PW- 3 Md. Mahar Ali, PW-4 Mazibar Rahman, PW-5 Mamanul Islam. Ext-1 Ejahar. After closure of the prosecution evidence, statement of the accused person recorded u/s 313 Cr.P.C. Accused plea is total denial, however declined to adduced evidence in support of the plea of denial.

### 6. **POINTS FOR DETERMINATION:-**

- i) Whether accused on 31-01-16 at about 08.00 am at village Boyzer Alga Pt. II under Fakirganj, subjected cruelty both physical and mental on informant's daughter Ms. Saleha Yasmin in demand of dowry?
- ii) Whether accused on 31-01-16 at about 08.00 am at village Boyzer Alga Pt. II under Fakirganj committed criminal intimidation to Ms. Saleha Yasmin and threatened her by lathi?
- iii) Whether accused on 31-01-16 at about 08.00 am at village Boyzer Alga Pt. II under Fakirganj assaulted Ms. Saleha Yasmin by lathi with such intention or knowledge that by the said act he had caused the death of Saleha Yasmin?

### **ARGUMENT**

7. I have heard learned counsel for both sides. Ld. defence counsel contented that there is not a single material appearing against the accused person and evidence of victim goes against the prosecution charge leveled against the accused person.

### **EVIDENCE**

8. PW-1 Abdul Mazid @ Khaka is the informant of this case. His evidence is that victim is his daughter and accused is his son in law and his daughter is living with her husband i.e with accused on her matrimonial house at Majpara. From one Nur Mohammad of Majpara he heard over phone that a quarrel took place in between his daughter and his son in law took place he went to the matrimonial house of his victim/daughter and his

daughter told him that her husband beaten her and thereafter he lodged ejahar vide Ext 1. **In cross** he stated his house 18 km away from the house of accused and hearing the news of incident of beating on his daughter by accused he straightly went to the police station and lodged the ejahar and thereafter he went to the house of his son in law. He stated his daughter did not give any information about the incident. One Nur Mohammad given him the information about the incident. He stated after reaching his daughter's matrimonial house he came to know that there was minor altercation took place in between his daughter and his son in law. He stated presently his daughter is living peaceful married life with his accused son in law. He further stated he lodged the case due to misunderstanding on getting information from others.

9. PW-2 Saleha Yesmin is the victim of this case. Her evidence is that accused Ekram Ali Mollah is her husband. She had altercated with her accused husband over some family matters and someone informed about the said altercation to her father. Thereafter her father came to her matrimonial house with police and police taken her and her husband to police station. She deposed from the police station she went to her father's house and after 1 ½ month her husband came to her father's house and taken back her to her matrimonial house and since then she is leading her conjugal life with accused at her matrimonial house. **In cross** she stated she did not inform about any altercation that took place in between her and her accused husband. Someone from her village informed her father and her father brought police to her matrimonial house without informing or contacting with her. She stated her father lodged the case due to misunderstanding and presently she is leading happy conjugal life with her accused husband.

10. Evidence of PW-3 Md. Mahar Ali is that he knows the accused but don't know wife of accused. He deposed he doesn't have visiting terms with accused but occasionally he heard quarrel taking place in the house of accused. In cross he stated he does not have any idea reason of quarrel that took place in the house of accused and family members of accused also did not tell about the reason of quarrel.

11. Evidence of PW-4 Mazibar Rahman is that he knows both accused and victim. He deposed one day police who came to accused's house called him and before police he told that sometimes family quarrel took

place in the house of accused. **In cross** he stated he don't know as to why quarrel took place in the house of accused.

12. Evidence of PW-5 Mamanul Islam is that he knows accused but does not know his wife. He deposed one day while he was returning home from shop he saw accused was lifted by police and seeing this while he asked police about the matter then police asked him to come to police station. **In cross** he stated he does not know about the incident.

### **DISCUSSION, DECISION & REASON THERE OFF:-**

13. Prosecution allegation leveled against accused is that accused during his conjugal life with victim , subjected cruelty both physical and mental on her and on 31-01-16 at about 08.00 am at village Boyzar Alga Pt. II under Fakirganj accused threatened victim with lathi and assaulted victim by lathi with such intention that he had caused the death of victim. I have scrutinized the case record. In this case prosecution adduced evidence of informant, victim and other witnesses. Now let me analyze evidence on record.

14. Victim in her evidence stated about only small quarrel that took place in between her and her husband which was informed to her father and her father lodged the case. Victim who is the star witness of the case did not made any allegation of illegal demand against the accused who is her husband. She did not alleged that her husband subjected or treated her cruelty at any point of time after her marriage with the accused or just before the filing of ejahar against her husband by her father. She did not corroborated the statement made by her father in the ejahar. Her evidence does not bring on record that she fall in the prey of her husband in alleged demand of dowry. Her evidence pointed that there is no illegal demand made by her husband, she was not subjected with cruelty either physical or mental by her husband and there is no statement coming out from her mouth that her husband (accuse ) made attempt to kill her. Her evidence pointed her father getting information of her quarrel with accused bring police, took her to her house and lodged the case. Her evidence revealed that she even did not stated any facts which were made by PW-1 informant in his ejahar. PW-1 himself before the court on oath did not support his own statement made in the ejahar. Thus shown that evidence of PW-1 and

PW-2 does not substantiate the statement made in the ejahar and prosecution charge against the accused not at all proved.

15. Upon discussion made above, I hold that prosecution miserably failed to establish charge u/s 498(A)/307/506 I.P.C against the accused Ekram Ali Mollah @ Mondal and he is acquitted from the charge of section 498(A)/307/506 I.P.C and are set at liberty.

16. Bail bond of accused person will remain stands for next six (6) months u/s 437(A) Cr.P.C.

17. Send back the GR case record to the learned committal Court with a copy of the judgment.

18. Given under hand and seal of this Court on this 07<sup>th</sup> day of December 2017 at Bilasipara.

(Smti S. Bhuyan)

Addl. Session Judge, Bilasipara

Dictated and Corrected by me,

(Smti S. Bhuyan)

Addl. Session Judge, Bilasipara

Typed by,

Swmkhwr Brahma, Stenographer Gr. III.

**APPENDIX**

PROSECUTION WITNESS:-

PW- 1 Abdul Mazid @ Khaka,

PW-2 Saleha Yesmin,

PW- 3 Md. Mahar Ali,

PW-4 Mazibar Rahman and

PW-5 Mamanul Islam

PROSECUTION EXHIBIT:-

Ext-1 Ejahar.

DEFENCE WITNESS :- NIL

DEFENCE EXHIBITS :- NIL

COURT EXHIBITS :- NIL

COURT WITNESS :- NIL

(Smti S. Bhuyan)

Addl. Session Judge, Bilasipara