

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
BAKSA

P.R.C. No. 914 of 2020

.....
Under Sections 498A, 323, 34 of Indian Penal Code

State

Vs.

Nimar Hussain,
Abdul Mazid,
Dalasa Bibi

..... Accused persons

.....
Present: Pragyashree Chetia, AJS.

Judicial Magistrate First Class, Baksa

Evidence recorded on : 03.02.2022

Arguments heard on : 03.02.2022

Judgment delivered on : 03.02.2022

Appearing for the Prosecution: Sri. Kishor Basnet

Appearing for the Defence : Sri. Roshan Pathak

JUDGMENT

1. The case of the prosecution in brief is that the informant Chamala Khatun lodged a FIR in Tamulpur Police Station wherein she alleged that she got married to the accused person Nimar Hussain around ten years ago. After the marriage the accused person on the on the advice of the accused persons Abdul Mazid and Dalasa Bibi tortured her physically and mentally for fulfilling the demand of Rs. 1 lakh. She further stated in the FIR that on 21.05.2020, at around 1 P.M. the accused persons hit her with a tin bucket and injured her. On the same night at around 8:30 P.M. the accused person after consuming liquor slapped her and tore off her clothes and tried to douse kerosene oil on her. However, she fled the house and saved herself. Hence, the case.
2. On the basis of the FIR a case was registered as Tamulpur P.S. Case Number- 223/20 under Sections 498A, 325, 34 IPC. ASI Biraj Baruah, Tamulpur P.S. was entrusted with the investigation of the case and after the completion of the investigation charge sheet along with one notice, one medical report, one accused verification report and one sketch map were submitted by him against the accused persons Nimar Hussain, Abdul Mazid and Dalasa Bibi under Section 498A and 323 IPC.

3. The accused persons appeared before this court and were released on bail. Copies of relevant documents were furnished to them in accordance with Section 207 Cr.P.C. Upon consideration of relevant documents and hearing both parties, formal charges u/S 498A and 323, 34 IPC were framed against the accused persons Nimar Hussain, Abdul Mazid and Dalasa Bibi and thereafter, particulars of offences were read over and explained to them to which they pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined 1(one) witness after which the prosecution evidence was closed. The recording of statements of the accused persons u/S 313 Cr.P.C was dispensed with due to the lack of incriminating materials against the accused persons. Defence did not adduce any evidence.

5. Heard the arguments advanced by learned Assistant Public Prosecutor and learned defence counsel and perused the evidence on record.

POINTS FOR DETERMINATION

6. Whether accused persons Nimar Hussain, Abdul Mazid and Dalasa Bibi, being the husband and relatives of the informant Chamala Khatun, in furtherance of common intention, subjected her to cruelty after their marriage and on 21.05.2020, for fulfilling their demand for dowry and thereby, committed an offence under Section 498A IPC?
7. Whether accused persons Nimar Hussain, Abdul Mazid and Dalasa Bibi, in furtherance of common intention, voluntarily caused hurt to the informant and thereby, committed an offence under Section 323 IPC?

EVIDENCE ON RECORD

8. The prosecution examined the informant as P.W.1. In her examination in chief, she deposed that she lodged the case against the accused person around 2 years ago due to some misunderstanding with the accused persons. She did not have any grievance against them and she is staying together with the accused persons at her matrimonial home peacefully. She identified the FIR as Exhibit 1. The defence declined to cross examine her.

DISCUSSION DECISION AND REASONS THEREOF

9. I have carefully perused the evidence on record. It is seen that the testimony of the witness does not reveal any incriminating material against the accused persons. Rather, it shows is that there had been some misunderstanding between the informant and the accused persons with regard to personal issues. Also, it is found that at present she is living peacefully with the accused persons in the same house.

10. This is a case under Section 498A, 323 IPC, where the informant, being the victim and the main witness did not support her own case. She did not mention of any offence committed by the accused persons which could entail their conviction under Sections 498A and 323 IPC. Thus, upon consideration of the evidence on record, the accused persons Nimar Hussain, Abdul Mazid and Dalasa Bibi are hereby not found guilty of offences under Sections 498A and 323 IPC.

ORDER

11. In view of the above discussion, it is held the prosecution has failed to prove the allegation against the accused persons Nimar Hussain, Abdul Mazid and Dalasa Bibi under Sections 498A and 323 IPC beyond all reasonable doubt. As such the accused persons are acquitted of the offence under the above-mentioned Sections and are set at liberty forthwith.

12. Their bail bonds are extended for a period of six months as per Section 437A Cr.P.C.

13. The judgment delivered and pronounced by me today in the open court given under my hand and seal of this Court on this 03rd day of February, 2021.

The entire judgment is typed by me.

Pragyashree Chetia,
JMFC, Baksa, Mushalpur.

APPENDIX

PROSECUTION WITNESSES:

1. P.W.1: Chamala Khatun

DEFENCE WITNESSES:

None

PROSECUTION EXHIBITS:

1. Exhibit 1: FIR

DEFENCE EXHIBITS:

None

MATERIAL EXHIBITS:

None

Pragyashree Chetia
JMFC, Baksa, Mushalpur