

THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

G.R. CASE NO.- 2930/2015

U/S 498-A OF THE IPC

STATE

VS.

ARIF IQBAL NAMANI
S/O LATE ABDUL MANNAN NAMANI
R/O TINIKUNIA, IN FRONT OF ASTHA HOSPITAL
P.S. DIBRUGARH
DISTT. DIBRUGARH

PRESENT:- KAUSHIK KAMAL BARUAH
JUDICIAL MAGISTRATE FIRST CLASS
AT DIBRUGARH

APPEARANCES:- SMT. LAKHIMI MOHAN.....FOR STATE

SRI ASHIM KUMAR DUTTA
AND

SRI NISAR AHMED.....FOR ACCUSED

DATE OF EVIDENCE:- 06/06/18, 16/07/18, 29/08/18, 26/04/19.

DATE OF ARGUMENT:- 09/05/19.

DATE OF JUDGMENT:- 09/05/19.

JUDGMENT

1. Accused Arif Iqbal Namani stood trial for offence punishable under section 498-A of the Indian penal Code, 1860 (the IPC for short).
2. Material facts of the case as appears from the contents of the First Information Report (FIR for short) are as follows:- that, the informant, Madhu @ Ayesha Namani, is the wife of above named accused. During the course of her marital life she gave birth to two sons. But since her marriage her husband subjected her to acts of mental and physical cruelty for no apparent reason which was again supported by her in-laws, namely, Adib Fatema Namani, Sakina Namani and Monina Namani. On, 16/10/15, accused Arif Iqbal Namani took her eldest son, Raihan, aged four years, to school but neither of them returned home. As such, she went in search of

her son and contacted her husband's relations about the whereabouts of her son but they expressed their ignorance.

3. Therefore, on 17/10/15, the informant lodged a written FIR before the Officer-in-Charge of Dibrugarh Police Station which was registered and numbered as Dibrugarh P.S. Case No.850/2015 under sections 498-A/365 of the IPC. During the course of investigation, the investigating officer visited the place of occurrence, recorded the statements of witnesses under Section 161 of the Code of Criminal Procedure, 1973 (the Cr.P.C. for short), arrested accused Arif Iqbal Namani and released him on bail.
4. After completing the investigation, the Investigating Officer submitted charge-sheet to prosecute accused Arif Iqbal Namani for offence under section 498-A of the IPC. Rest of the FIR-named accused were not sent up for trial.
5. Court processes were issued and on his appearance the accused was allowed to go on bail. Copy of relevant documents was furnished to the accused person. Particulars of the offence under section 498-A of the IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
6. Prosecution examined five witnesses and closed evidence. Examination of the accused under section 313 of the Cr.P.C. was dispensed with as nothing was deposed against him.
7. Heard arguments advanced by learned Assistant Public Prosecutor and learned defence counsel.

POINTS FOR DETERMINATION

- a) Whether the accused, since his marriage with Madhu @ Ayesha Namani, subjected her to acts of physical and mental cruelty endangering her life, limb and health?

DISCUSSION, DECISION AND REASONS THEREON

8. In order to establish the allegations against the accused person, prosecution examined Hari Mohan Singh, Anita Singh, Abu Nasar, Rezia Begum and Madhu @ Ayesha Namani as PW1, PW2, PW3, PW4, PW5 respectively and closed evidence.

9. Among the witnesses examined by the prosecution, PW5 was the informant and also the victim. In her evidence she deposed that on 16/10/5 she had an argument with her husband upon a private issue and misunderstanding the fact situation she filed FIR against him. Ext.1 is the FIR and Ext.1(1) is her signature thereon. Defence declined to cross-examine her.
10. PW1, PW2, PW3 and PW4 deposed that they are the neighbors of the accused. They, in their ocular evidence, had not incriminated the accused in any manner rather all of them expressed their utter ignorance about the occurrence. Defence declined to cross-examine them as well.
11. Therefore, from the evidence available on record it becomes apparently clear that the criminal law was set into motion by the informant solely upon a misunderstanding of fact on her part. She being the victim had herself not attributed any overt act upon the accused.
12. In a nutshell, prosecution has no evidence worth the name against accused Arif Iqbal Namani for the indictment.

ORDER

13. As such, from the observation and discussion done hereinbefore, I arrive at the conclusion that the prosecution had failed to establish the allegation against accused Arif Iqbal Namani for the offence under section 498-A of the IPC in all respects. As such, the accused is acquitted of the offence under the section of law indicated above.
14. Accused person be set at liberty forthwith. Bail bond of the accused person stands cancelled. The accused person may obtain copy of the judgment but not without payment.
15. Instant case is disposed of on contest.

Given under my hand and Seal of the Court this 9th day of May, 2019.

Typed and corrected by me and every page bears my signature.

Judicial Magistrate First Class,
Dibrugarh.

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APPENDIX

- 1) Prosecution exhibits:-
Ext.1:- FIR
Ext.1(1):- Signature of Madhu @ Ayesha Namani
- 2) Prosecution witnesses:-
PW1:- Hari Mohan Singh
PW2:- Anita Singh
PW3:- Abu Nasar
PW4:- Rezia Begum
PW5:- Madhu @ Ayesha Namani
- 3) Defence exhibits.- NIL
- 4) Defence witnesses.- NONE

Judicial Magistrate First Class,
Dibrugarh.