

IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS::: DIBRUGARH

GR Case No. 2040/20

U/S 509 r/w sec 34 IPC and sec 67 IT Act

State

Vs.

Kamal Molia and Ritumoni Changmai

.....Accused persons

Present : Deepsikha Das, JMFC

Ld. Advocates Appeared

For the prosecution :Smti. Gopa Chakraborty
Ld. Addl. PP

For the Defence :Learned Adv B D Gogoi

Date of Framing Charge :06/10/2021

Date of recording evidence :18/11/2021 & 6/12/2021.

Date of argument :13/12/2021

Date of judgment :13/12/2021

JUDGMENT

1.The complainant Krishna Deka filed a First Information Report (F.I.R) stating interalia that she was married to one Mr Kamal Molia. It was stated that on 4/9/2019 both the informant and the accused came into a mutual agreement that they will live separately and their child shall stay with the accused. But, the accused and his present wife have been uploading her photos and sharing SMS vide a fake profile opened in her name by the accused. These are done to lower the dignity of the informant. Hence the case.

2.On receipt of the FIR, the police registered the case as Tingkhong P.S case No. 127/20 u/s 509 read with sec 34 of Indian Panel Code (I.P.C) and read with sec 67 of the Information and Technology Act 2000.

3.Police investigated the case and finally filed the charge-sheet against the accused persons Kamal Molia and his wife Ritumoni Changmai u/s 509 read with sec 34 of Indian Panel Code (I.P.C) and read with sec 67 of the Information and Technology Act 2000.

4.The copy was furnished to the accused persons and charges were framed u/s 509 read with sec 34 of

Indian Penal Code (I.P.C) and read with sec 67 of the Information and Technology Act 2000 and was read over and explained to the accused persons, to which they did not plead guilty and claimed to be tried.

5. In the instant case only 1 (one) witness was examined by the prosecution.

Discussion decision and reason thereof

6. Let me now consider the evidence of the witnesses to arrive at a just conclusion.

PW-1: Krishna Deka: deposed that she is the wife of the accused Kamal Molia. She stated that they were married in the year 2012. They also have a child. She stated that the accused works in company in Chennai. She stated that her husband used to talk to other girls over phone and Facebook in Chennai. He had an affair with a girl from Duliajan, Dibrugarh. Gradually the accused stopped sending money to her from Chennai and she faced financial hardship. She further stated that after that she came to her parental house along with her minor son and started to work in a shopping mall.

After some months, the accused came to Assam from Chennai. The parents and her brothers came to the house along with her to have a

discussion. Then the accused refused to keep me with him, but he took the minor child. After some days the accused married another girl and they started uploading her photos from a fake account in her name. They shared photos and SMS and videos. The accused and his wife also talked to many people by sending friend requests. Then pw1 filed an e-jahar in Tingkhong PS. She identified Exhibit -1 as the FIR, Exhibit-1(1) as her signature. Exhibit-2 and 3 seizure list and Exhibit-2 (1) and 3(1) as her signature. Material exhibit-A as screenshot of FB, ME B and B1 are mobile phones of the accused.

In her cross examination, pw1 stated that she and her husband were staying in a separate house from the in-laws house, but in the same boundary. She stated that her husband used to remain for approximately 2 months in Assam, and then in Chennai. She also stated that he was working in Chennai even before their marriage. He used to send about 10000 to 12000 monthly. She stated that they were staying separately because of quarrel between her and the in-laws. She stated that the accused also given one smartphone and only after that she started using FB and WhatsApp. She denied the suggestion that there were between her and the accused because she remained busy on the phone all day. She

admitted that there was quarrel between them because of her suspicion. She further stated that she was working in City Life mall, Moran which is about 1 hour distance from her parents' house. She was staying in a hostel and her child with her parents. She denied the suggestion that the accused requested her to leave the job and she refused. She also denied that she left her son by herself. She stated that the Material exhibit 1 is a whatsapp message sent by the accused Ritumoni Changmai, where there is no slang language used. She also stated that she cannot show the number from which it was sent, as the message to her mobile was resend by her to her other mobile. She denied the suggestion that she did not take care of her son and thus she stayed alone in Moran. She denied the suggestion that she has created a fake account in facebook in her name. She denied the suggestion that she left her matrimonial house willingly.

7. Thereafter the Ld. Defence Counsel prayed for re-examining the witness (pw1) as new developments took place between the parties. Therefore the informant cum victim was re-examined and cross examined.

In the re-examination, informant PW1 Krishna Deka stated that the case was filed by her

in the year 2020. But at the time of deposition, the accused and pw1 has got mutual divorce in Divorce Case no M65/2021. She also stated that the deposition earlier given by her was due to some misunderstanding. Now the situation has improved and they have amicably settled the matter. She also stated that she did not have any objection if the accused persons are acquitted.

8. Accordingly the statement of the accused u/s 313 of Cr.P.C has been dispensed with, as there are no incriminating materials against the accused persons.

9. I have considered the evidence of the witness. The informant has deposed that she has compromised and amicably settled the case with the accused persons already. Accordingly from the materials on record it seems that the allegation as brought forward by the prosecution has not been substantiated and could not be proved under the present circumstance of the case.

10. Hence the prosecution has no legs to stand. Consequently the accused person is not found guilty u/s 509 read with sec 34 of the IPC and read with sec 67 of the Information Technology Act 2000.

Order

11. The accused persons Kamal Molia and Ritumoni Changmai are thereby acquitted of charges u/s 509 read with sec 34 of the IPC and read with sec 67 of the Information Technology Act 2000 and read with sec 34 of the IPC and set at liberty forthwith.
12. Bail bond stands discharged.
13. The custody of the seized mobile phones and its documents are made absolute in favour of the registered owner thereof.
14. Delivering the aforesaid judgment at Dibrugarh on 13/12/2021.

Deepsikha Das

Judicial Magistrate First Class,
Dibrugarh

Appendix

PROSECUTION WITNESS

P.W-1 Krishna Deka

DEFENCE WITNESS

NIL

PROSECUTION EXHIBIT

Exhibit -1	FIR.
Exhibit-1(1)	Signature
Exhibit -2	Seizure list
Exhibit-2 (1)	Signature
Exhibit -3	Seizure list
Exhibit -3 (1)	Signature
ME 1 and 1A	Screen shots
ME B and B1	mobile handsets.

DEFENCE EXHIBIT

NIL

Deepsikha Das
Judicial Magistrate First Class,
Dibrugarh