

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE: KOKRAJHAR

G.R CASE NO.273/13

U/S 498(A) of IPC

State

-Vs-

Md. Monouddi Sk

Accused person

PRESENT:- SRI R. KR.TODI, A.J.S

Mr. K.Ch.Saha, Ld.A.P.P for the State.

Mr,A.G.SK, Learned Advocate for the accused person.

Date of recording Evidence: - 13.12.13, 20.3.14 and 19.09.14

Date of hearing Argument:- 09.10.14.

Date of delivery of Judgment:- 22.10.14.

JUDGMENT.

1. Prosecution case in brief, is that, the informant Saritollah Sk lodged an ejahar before the O/C Fakiragram P.S on 23.3.13 alleging inter-alia that marriage of his sister Kashema Bibi took place with accused Monouddi SK about 1 ½ years back. After some time of marriage the accused No.1 on the ill-advice of this parents made illegal demand of dowry and also tortured Kashema Bibi both mentally and physically. It is stated further that being unable to bear the torture of accused Monouddin SK, Kashema Bibi had taken shelter in the house of informant Saritollah SK.

2 On the basis of aforesaid ejahar Fakiragram P.S case No.14/13 was registered and on completion of investigation charge- sheet was submitted under section 498(A) of IPC against the accused person.

3 On appearance, the accused person was enlarged on bail. Copy was furnished. Having heard both sides and having considered the materials on record formal charge under section 498(A) of IPC was framed, read over and explained to the accused person Monouddi SK to which he pleaded not guilty and claimed to be tried.

4. **POINT FOR DETERMINATION:**

My learned predecessor framed the charge against the accused person as follows:-

Whether, the accused person Monouddi SK (being the husband of Kashema Bibi, the sister of the informant) subjected her to cruelty and harassed her with a view to coerce her to meet unlawful demand of dowry and thereby committed offence punishable under section 498(A) of IPC?

5 During trial, prosecution examined as many as 5(five) witnesses including informant and I.O. It is pertinent to note that the alleged victim Kashema Bibi could not be examined as reportedly she died out of some ailment during pendency of the trial. The accused was examined under section 313 of Cr.P.C after closer of prosecution evidence. Heard arguments.

6. **DISCUSSION DECISION AND REASONS THEREOF:**

P.W.1 Babur Ali deposed that he hailed from the village of informant Saritollah SK and knew that marriage between Monouddi SK accused and Kashema Bibi took place about 3/4 years back. He also deposed that Kashema Bibi was suffering from some ailment and she was unable to do the house hold works. She was brought to his house by the informant Saritollah SK and after few days she died because of her ailment.

In his cross-examination the said P.W. admitted that the accused never tortured Kashema Bibi demanding money from her.

7. P.W.2 the informant Saritollah SK deposed that after marriage of Kashema Bibi with the accused, she was suffering from some ailment but the accused did not get her treated by a doctor rather sent her to his house. He also stated that the accused did not give money for treatment of Kashema Bibi. He also stated that after few days Kashema Bibi died because of her ailment.

In his cross the P.W.2 admitted clearly that he would not lodge the ejahar if the accused would have given money for treatment of Kashema Bibi.

8. P.W.3 Saripan Bewa the mother of alleged victim Kashema Bibi deposed inter-alia that after marriage accused ill-treated Kashema Bibi. She deposed further that one day accused gave her money for treatment of Kashema Bibi. She also stated that the accused sent Kashema Bibi to their house and they treated her and after few days Kashema Bibi died.

In her cross-examination, she denied the suggestion that accused did not torture Kashema Bibi.

9. P.W.4 M.O Dr. P.K.Das deposed that on 23.3.13 he examined Kashema Bibi but found no injury on her body.

10. P.W.5 Juran Ali, the I.O deposed that on receiving ejahar the same was registered and investigation was entrusted to him and accordingly he visited the P.O., recorded the statements of witnesses and on completion of investigation submitted charge-sheet under section 498(A) of IPC against the accused person.

In his cross-examination he admitted that in statements under section 161 of Cr.P.C. none of the P.Ws stated before him that the accused had demanded money from the alleged victim Kashema Bibi. He also admitted that he did not examine Abdur Rahman and Taizuddin, who resided near the place of occurrence. He denied the suggestion that he did not investigate the case properly.

11. From the evidences as above it abundantly clear that no demand of money was ever made by the accused to the victim or her relatives. Even in the ejahar there is no mention of demand of any amount of money by the accused and also in the evidences of P.Ws also there is no statement to the effect that accused ever made any demand of money. From the evidence of the informant (P.W.2) it reveals that he lodged the ejahar only because the accused did not give money for treatment of the victim Kashema Bibi. On the other hand, evidence of P.W.3 the mother of alleged victim Kashema Bibi it appears she stated that accused gave money for treatment of Kashema Bibi. Here the statement of P.W.2 is contradictory to the statement of P.W.3 who is the mother of the victim. It thus appears that the informant lodged the ejahar only with a view to compel the accused to provide some money. Evidence also reveals that the accused sent the alleged victim Kashema Bibi to her parents house because she was ill and she died at parent's house. Here it is also clear that the accused did not drive out the alleged victim Kashema Bibi and also did not torture her. The evidence of M.O also makes it clear that he did not find any injury from the body of alleged victim Kashema Bibi on her examination. It thus appears that the allegation of torture has no substance at all. Moreover, the best witness, the alleged victim herself is not more to support the story of prosecution.

12. So situated, it can be concluded that prosecution has not been able to establish charge under section 498(A) of IPC at all against the accused person Monouddi SK beyond all reasonable doubts and therefore he is acquitted from the charge thereof and set at his liberty forthwith.

13. Judgment is pronounced.

The case is disposed of.

Given under my hand and seal of this court, this 22nd Day of Oct'2014 at Kokrajhar.

**Dictated and corrected
By me**

**R. Kr. Todi
Addl. Chief Judicial Magistrate,
Kokrajhar**

Addl.C.J.M, Kokrajhar

APPENDIX**Prosecution witnesses.**

- 1.P.W.1 Babur Ali
 2. P.W.2 Saritollah SK the informant
 3. P.W.3 Saripan Bewa
 4. P.W.4 Dr. P.K.Das, M.O
 5. P.W.5 Juran Ali, the I.O
- Defence witness Nil.

**Addl. Chief Judicial Magistrate,
Kokrajhar**