

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

Present. :Miss Sarmistha Dash, LL.B.,
Judicial Magistrate First Class,
Banpur

Date of argument. : 08.08.2014

Date of Judgment. : 20.08.2014

G.R. No. 121/2002

T.R. No. 700/2002

StateProsecution.

-Versus-

Kalu Jena, aged about 44 years, S/o Late Aintha Jena
Vill: Karadapalli, P.S: Banpur, Dist: Khurda

..... Accused .

Offence: Under Sections 498(A)/494/34 of the I.P.C. & 4 D.P.Act.
For the Prosecution. :Sri J.Pradhan, APP.

For the Defence. :Sri S.N.Mahapatra & others.

J U D G M E N T.

01. The accused persons stand prosecuted for the offence punishable Under Sections 498(A)/494/34 of the I.P.C. & 4 D.P.Act. of the Indian Penal Code.

02. The case of the prosecution in brief runs thus:

One Pandi @ Ahalya Jena filed a complaint petition alleging therein that her marriage was solemnised in the Month of Phalguna of the year 1997 in village Karadapalli with Panchu Jena as per Hindu rites and customs. At the time of marriage as per the demand of the accused persons the complainant's parents gave Rs.10,000/-, one gold finger ring, and other utensils towards dowry. After marriage the complainant lived happily in her in-laws house for a period of one year. After one year the accused persons insisted the complainant to bring Rs.10,000/-. When the complainant expressed the inability of her parents to fulfill their demand torturing the complainant

physically and mentally. The accused persons used to assault the complainant very often without any fault of her and did not provide sufficient food to her and her baby. Lastly on 03.03.2002 all the accused persons physically assaulted the complainant and forcibly drove her out from matrimonial home and warned her not to return again. Finding no alternative she filed the complaint petition before this court which was sent to P.S for for investigation.

Upon such report P.S. Case No.70/2002 was registered and investigation was carried out and after completion of investigation as prima facie evidence is well made out against the accused persons, the I.O. submitted charge sheet against them. Hence this trial.

03. The plea of defence is one of complete denial and false implication.

04. The point for determination in this case emerges as follows:

- Whether on or before 03.03.2002 at about 4 pm the accused persons in furtherance of their common intention subjected the informant to cruelty and tortured her both physically and mentally?
- Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention demanded more dowry from the informant's parents?
- Whether on the aforesaid date, time and place of occurrence the accused Panchu Jena in the life time of the informant committed second marriage with another lady?

05. In order to prove its case, prosecution has examined as many as 4 P.Ws in its favour where as defence has examined none. All are independent witnesses to the occurrence.

06. This is a case U/s 498(A)/494/34 of the I.P.C. & 4. D.P.Act. In order to substantiate the case against the accused persons, it is necessary to scrutinize the

case of prosecution. During course of trial P.Ws.1 & 2 deposed that all the accused persons are belong to Karadapalli. Ahalya was married to Panchu Jena of Karadapalli. During their cross examination they said that after the decision of both the villages the accused persons returned the dowry articles to the informant. Now the informant married to another person in their village. P.Ws 3 & 4 deposed that they do not know anything about this case. The prosecution has not examined the informant as well as her parents to corroborate the prosecution story.

Hence considering the above evidence on record and the fact that the prosecution failed to examine the informant as well as the occurrence witnesses or her family members I am of the opinion that prosecution has miserably failed to prove its case beyond all reasonable doubt. In the result, the accused is found not guilty for the offence U/s.498(A)/494/ 34 of the I.P.C. & 4.D.P.Act and acquitted thereof U/s.248 (1) of Cr.P.C. He be set at liberty and discharged from his bail bond.

The Zimanama be cancelled after expiry of four months of the appeal period if no appeal is preferred and in case of appeal as per the direction of Appellate court.

Enter the case as mistake of fact.

Judicial Magistrate First Class,
Banpur.

This judgment is typed to my dictation, corrected by me and pronounced in the open court, given under my hand and seal of this court, this the 20th day of August, 2014.

Judicial Magistrate First Class,
Banpur

List of witnesses examined for Prosecution.

PW.1 Bansidhar Behera

PW.2 Jogi Bisoi

P.W.3 Ratnakar Mishra

P.W.4 Nirmala Pradhan

List of witnesses examined for defence.

None.

List of Exhibits marked for Prosecution.

Nil

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,

Banpur