

DISTRICT- RAMGARH
IN THE COURT OF SDJM, RAMGARH

Present: Arti Mala
SDJM, Ramgarh

Ramgarh, dated the 17th January, 2019.

GR-1792/2006
CNR No.JHRG030000122006

State through (Nushrat Praween)

.....**Informant**

Vs.

- 1.Md. Asrullah;S/O-Md. Alim aged about 38 years.
- 2.Askin Parween @ Ginni ; D/O-Md. Alim aged about 19 years.
- 3.Md. Asadullah @ Saheb ;S/O-Md. Alim aged about 25 years.
4. Ibrarullah @ Raja ;S/O-Md. Alim aged about 28 years.
5. Gazala Parween @ Memin ;D/O-Md. Alimuddin aged about 17 years.
- 6.Md. Alimmudin;S/O-Wali Mohammad aged about 65 years
- 7.Asmat Khatoon;W/O-Md. Alim aged about 55 years.
- 8.Md. Akhtar;S/O-Md. Alim aged about 45 years.

All R/O- Mauza Chitarpur, P.S Rajrappa, Dist. Ramgarh

..... **Accused persons.**

Charge u/s. 498 'A' ,323,406,120'B' I.P.C & ¾ of D.P Act.

For the State :Smt. Manju Kachyaap (Ld. A.P.P)

For the Defence : Sri Deepak Ranjan (Ld.Advocate)

J U D G M E N T

1. The accused namely Md. Asrullah,Askin Parween @ Ginni ,Md. Asadullah @ Saheb,Ibrarullah @ Raja , Gazala Parween @ Memin ,Md. Alimmudin,Asmat Khatoon,Md. Akhtar faced trial for the offence U/s- 498 'A',323,406,120'B' I.P.C & ¾ of D.P Act.

2. The case of prosecution is registered U/S-498 'A' ,323,406,120'B' I.P.C & ¾ of D.P Act against aforesaid accused persons on the basis of the complaint petition filed on behalf of the informant Nushrat Praween which was sent U/s-156(3) Cr.P.C to the police station stating therein that the informant was married with Ashraullah on 4.4.03 according to Muslim rites and rituals. At the time of marriage the father of the informant had given all articles use, furniture, Sofa set, dinning table ,chairs, Deewan Palang, Sewing Machine, utensils clothes for complainant and her husband and gold and silver ornaments all worth over 1.50 lac rupees and a cash of Rs. 50000/- towards purchase of Hero Honda Motor cycle at the time of marriage, and a “Nikahnama” was prepared duly signed by the witnesses of both the parties. After her marriage the complainant went to her husband's house in Chitarpur and lived as wife and husband together. The accused is also educated and is running a flourishing panshop with other articles in Chitarpur, and is earning Rs. 5000/- monthly towards the income from his shop. And he has vest agricultural lands in Chitarpur, from which he has his agricultural income also which comes to about rupees 30000/- per year. For some times after marriage the complainant lived happily at her sasural at Chitarpur but after six months a demand was made by the husband father-in-law and mother-in-law that Ashraullah needs urgently rupees 50,000/- setting up a bigger business from the complainant. The complainant expressed her inability to fulfill their demands because her parents had given sufficient articles mentioned above and all articles of comfort and domestic use were given to her by her parents and they were not in a position to give further money to the accused persons. The complainant was forcibly sent to her father's house at Sirka to bring a cash amount of Rs.50000/- in October, 2003. During Dashra festival in October, 2003 the complainant was focibly sent to her father's house in Sirka and she was also told by the accused persons not to come back sasural without Rs. 50000/-. Out of complete helplessness and poverty the father of the complainant managed to get Rs. 30000/- after

mortgaging his land and he gave Rupees 30,000/- to his daughter and the complainant with her father came to the house of the accused in the first week of November, 2003 and the complainant's father in presence of his daughter gave Rs. 30000/- to Ashraullah and his father Alimuddin. The complainant's father requested the accused persons not to torture his daughter for money because he had now nothing left to give to his son-in-law and then the father of complainant requested the accused persons to treat the complainant with love and affection and he left Chitarpur and came back to Sirka. The complainant was asked to cook meals for entire family herself and two unmarried sisters of the accused never helped the complainant to cook food but rather they were always commanding and treated the complainant as maid servant. Sometime both the sister of the accused and mother ordered the complainant to clean utensils even and the complainant without any grievance obeyed their command blindly. The accused and his parents spent all the money (Rs. 30,000/-) given by her father to the accused and fresh demand for money started in March 2004 by the accused persons who asked the complainant to go back home and bring another Rs. 20000/- rupees within 15 days without fail. The complainant out of anxiety left taking her food and was physically getting weak and all the time she was worried due to mental tension caused by the accused persons. The complainant was pregnant and gave birth to a daughter in March 2005. Frequent torture and abusing remarks by the accused persons to the complainant sometimes forced her even to commit suicide due to extreme mental torture and cruelty. Complainant out of disquest left her husband's house to bring money and come back to her father's house in Sirka in March 2004 at the time of Holi festival with her daughter. The complainant's father took a loan of Rs. 20000/- from his friends and took his daughter to Chitarpur, and met the parents of the accused No.1 and accused No.2 and handed over the entire 20000/- Rupees to the accused persons including the husband and his father, and told them that he would no more to give anything to accused persons

and keeping his daughter he came back to Sirka. The complainant conceived pregnancy from her husband some times in October, 2005 when she was living in her husband's house at Chitarpur. The complainant's husband gave her some drugs telling her that it is a medicine for good health and normal delivery of the child. When the complainant asked the accused to give up the name of the medicine, he slapped her and even threatening to kill her and out of fear the complainant took the medicine or drugs given by her husband. The complainant always narrated these things to her mother-in-law and her two unmarried Nanads but all told her that the husband was not giving poison but medicine for good health. All the accused persons were conspired to kill the complainant and they all knew the medicine or drug, which are being given to the complainant and it has deadly effect. In the first week of March 2006 the complainant started bleeding and developed extreme pain in her abdomen. The complainant requested the accused persons to take her to a lady doctor but the accused persons did not care for the extreme pain of the complainant because they wanted her to die some how. When the complainant condition became serious, she was taken to Matrika Sadan, Chitarpur which was run by lady doctor Savita Verma who got her aborted to save her life on 26.3.2006. After discharge from Matrika Sadan Chitarpur, the complainant came back to her sasural and was sent to her parent's house in Sirka in April 2006 and since then she is living with her parents and with her daughter and all her gold and silver ornaments have been taken away by her husband and in-laws. The Panchaities of Muslim Anjuman Committee was held on 20.11.2004 and Anjuman Falahul Muslim Chitarpur, on 22.11.2004 but the accused persons did not take any notice of the panchaities. Hence this case.

3. On the basis of complaint petition sent U/s-156(3) Cr.P.C, a formal F.I.R bearing No. 245/06 dated 02.07.06 was registered at Ramgarh (Project) P.S U/s- 498'A' ,406,323,120'B' of the I.P.C and ¾ D.P Act against above mentioned accused persons. After investigation

the I.O of the case submitted chargesheet U/S- 498 'A',323,406,120'B' I.P.C & ¾ of D.P Act.

4. On dated 30.03.2007 Ld. C.J.M, Hazaribagh took cognizance of the offence punishable U/s- 498 'A' ,323,406,120'B' I.P.C & ¾ of D.P Act against above mentioned accused persons and transferred the case record in the court of Sri S.B Ojha, J.M 1st class, Hazaribagh for trial and disposal in accordance with law.

5. On 29.05.2007 the charge U/S- 498 'A' ,323,406,120'B' I.P.C & ¾ of D.P Act was framed against the aforesaid accused and content of the charge have been readover and explained to them in hindi to which they pleaded not guilty and claimed to be tried.

6. After closure of prosecution evidence the statement U/s- 313 Cr.P.C was recorded of accused ,in which they have taken the plea of their innocence.

7. After creation of new Judgeship at Ramgarh, this case record was transferred to this court from Hazaribagh Judgeship.

8. Now, it has to be seen as to whether the prosecution has been able to prove its case beyond shadow of all reasonable doubts or not ?

FINDINGS

9. In order to substantiate its case prosecution has been able to examined altogether six witnesses PW-1 Sabir Rahmani,PW-2 Shahzada Usman,PW-3 Md. Abdullah,PW-4 Aftab Ahmad Rajjak,PW-5 is Nusrat Praween,PW-6 Sheik Md. Gamkhar Nabi whereas defence has not adduce any evidence on his behalf.

Following exhibit has been marked on behalf of prosecution:-

- **Ext.1 to 1/10 :-** Signature of informant on the complaint petition.

Following exhibit have been marked on behalf of defence:-

- **Ext.A:-**Signature of witnesses Sahzada Usman on written document dt.17.07.05
- **Ext.B:-** Signature made on xerox document dt. 7.12.05

- **Ext.C:-**Signature made on xerox document dt. 22.12.2008

10. Firstly I am taking up the evidence of **PW-5 Nusrat Praween** who is informant of this case. PW-5 Nushrat Parween she has briefly supported the case of prosecution in her chief examination and stated that her marriage was solemnized on 04.04.03 with the accused Md. Asrullah according to Muslim rites and customs. After the marriage she was subjected to mental and physical cruelty by the accused persons she has been compelled to do the household work thereafter, the accused persons have demanded Rs. 50,000/- for the expansion of the shop of her husband and somehow her father had managed Rs. 30,000/- and given the same to the accused persons. In November 2003 they have also given the rest of the amount Rs. 20,000/- but after keeping her for some month properly they again started to torture her . In the meanwhile she gave birth to daughter in the year 2005 and thereafter she was again subjected to physical and mental cruelty. The accused persons have abort her child. She was again got pregnant but they never stopped taking hard work from her due to which she fell ill and then she has been treated by the Doctor. They again started demanding Rupees and when the said demand was not fulfilled then they ousted her .She has also identified her signature made in each page of the complaint petition which has been marked as Exhibit 1 to 1/10 which has been identified by the accused persons before the court.

In her cross examination she has stated at para 17 that she has filed the document relating to the abortion but doctor name has not been given by her in the witness list. At para 18 she has identified her signature made on the document relating to date 7.12.05 which has been marked as **Ext.B**. After going through Ext.B it appears that it is signature of the informant which was made on Rs. 20 stamp paper prepared for the compromise between them. Further at para 20 she again identified the signature made on document dated 22.12.08 which was marked as **Ext.C**.

11. **PW-1 Sabir Rahmani**, father of informant he has also briefly supported the occurrence and made allegation regarding the given the dowry as per demand. At para 6 he has himself admitted that they came to know that his son-in-law is less educated and runs a beetal shop then they have been aggrieved. He has further stated at para 7 the panchyati was held on dated 7.12.05 panchyatinama paper was prepared at Rs. 20 stamp paper in which it has been written that Nushrat (informant) has to keep her good behavior with her husband and her in-laws. In this document there was no money anywhere regarding the demand of dowry there was also no occurrence of Asrullah(accused husband) rather the same is vacant and only his and his daughter Nushrat have signed there.He has further stated that on 7.12.05 no panchyati was held but he has identified his signature made in paper. Further at para 10 he has stated that he gave the money after keeping his land mortgage but no any receiving was taken from the Asrullah while giving the money. Further at para 11 he has also stated that at the time of delivery of the baby Asrullah took her wife to the hospital where a baby girl was born safely.Besides no material fact has come though denied the suggestion of defence.

12. **PW-2 Shahzada Usman**, brother of informant he has briefly supported the occurrence. At para 5 stated that today Asraullah,mother in-law Asmat, Nanad Mankin and Ibraraullah is present in court whom he identify and can identify other on seeing.At para 8 of his examination in chief he has stated that on 17.07.05 he has gone to bring back his sisters and one paper was prepared on that day which bears his pen and signature,which he identified which has been marked as **Ext.A**.

In his cross examination at para 10 stated that on which date Asraullah demanded money he cannot tell.At para 11 stated that he has not seen the accused torturing the informant and he has no medical report of miscarriage.Besides no material fact has come though denied

the suggestion of defence.

13. **PW-3 Md. Abdullah** is Jija of the informant who has very briefly supported the occurrence. He has not stated anything about the allegation in a descriptive manner. This witness has even stated that there was document prepared regarding transaction of Rs. 30,000/-. Besides no material fact has come though denied the suggestion of defence.

14. **PW-4 Aftab Ahmad Rajjak**, brother of informant reiterated the same fact as other Pws but in his cross examination he has stated at para 3 that the informant had filed case in court or not he cannot tell. Besides no material fact has come though denied the suggestion of defence.

15. **PW-6 Sheik Md. Gamkhar Nabi** is distant uncle of the informant who had stated in his examination in chief that this case has been filed by his niece Nusrat Parween. The complainant marriage was solemnized with Asrullah 10-12 years ago according to muslim rits and customs. After marriage she went to her sasural where she lived there happily for about one year and after she was tortured for dowry. She was told about the incident by his brother and mohalla people. At para 2 further stated that he identify the accused persons.

In his cross examination he stated at para 4 stated that no assault took place in front of him. At para 7 stated that Nusrat Parween has solemnized her second marriage and he does not know that how many children she has. Besides no material fact has come though denied the suggestion of defence.

16. Giving my due consideration on the entire material and evidence available on the record it appears that the aforesaid accused persons have been faced trial for offence U/s- 498 'A' ,323,406,120'B' I.P.C & ¾ of D.P Act on the basis of the complaint petition filed on behalf of the informant sent U/s-156(3) Cr.P.C to the police station. In order to substantiate its case prosecution has examined altogether six witnesses

out of seven charge sheeted witnesses amongst whom informant was examined as PW-5. PW-5 Nushrat Parween Informant has briefly supported the case of prosecution in her chief examination and stated that her marriage was solemnized on 04.04.03 with the accused Md. Asrullah according to Muslim rites and customs. After the marriage she was subjected to mental and physical cruelty by the accused persons. She has been compelled to do the household work. Thereafter, the accused persons have demanded Rs. 50,000/- for the expansion of the shop of her husband and somehow her father had managed Rs. 30,000/- and given the same to the accused persons. In November 2003 they have also given the rest of the amount Rs. 20,000/- but after keeping her for some month properly they again started to torture her . In the meanwhile she gave birth to daughter in the year 2005 and thereafter she was again subjected to physical and mental cruelty. The accused persons have abort her child that she was again got pregnant and never stopped taking hard work from her due to which she fell ill and then she has been treated by the Doctor. They again started demanding Rupees and when the said demand was not fulfilled then they ousted her . She has also identified her signature made in each page of the complaint petition which has been marked as Exhibit 1 to 1/10 which has been identified by the accused persons before the court. In this way in her chief examination she has supported the case of prosecution in her own way but in her cross examination she has stated at para 17 that she has filed the document relating to the abortion but doctor name has not been given by her in the witness list. But no any medical document has been filed . At para 18 she has identified her signature made on the document relating to date 7.12.05 which has been marked as Ext.B . After going through Ext.B it appears that there is signature of the informant which was made on Rs. 20 stamp paper prepared for the compromise between them. In this document there is no allegation or charges alleged therein. Further at para 20 she again identified the signature made on document dated 22.12.08 which was

marked as Ext.C. But From perusal of Ext.C it appears that contents have also not been yet exhibited hence it is of no worth. Further I find that in this case no charge was made U/s-313 and said offence is also not triable by this court hence allegation regarding causing abortion to the informant is not appreciated. Now so far as PW-1 Sabir Rahmani, father of the informant is concerned he has also briefly supported the occurrence and made allegation regarding the given the dowry as per demand but there is no such material available on the record which may show that the informant or his father has given such amount to the accused persons neither any documentary proof nor any chit of paper or any bank transaction has been brought on the record of such very date, which may show that they have given such amount to the accused persons on being demanded by them. Further more in his cross examination at para 6 he has himself admitted that they came to know that his son-in-law is less educated and runs a beetal shop then they have got aggrieved. He has further stated at para 7 the panchyati was held on dated 7.12.05 panchyatinama paper was prepared at Rs. 20 stamp paper in which it has been written that Nushrat (informant) has to keep her good behavior with her husband and her in-laws. In this document there was no any allegation regarding the demand of dowry nor the signature of Asrullah(accused husband) rather the same is vacant and only his and his daughter Nushrat have signed there.He has further stated that on 7.12.05 no panchyati was held but he has identified his signature made in paper. Further at para 10 he has stated that he gave the money after keeping his land mortgage but no any receiving was taken from the Asrullah while giving the money. I further find that no any such mortgage document has also been produced or brought on the record which may also show that no such demand was fulfilled by the informant's father.Further at para 11 he has also stated that at the time of delivery of the baby Asrullah took her wife to the hospital where a baby girl was born safely. Further PW-2 is brother of the informant he has briefly supported the occurrence but in his cross examination at para 8

he has identified his pen and signature made on document prepared on dated 17.07.05 in which witnesses have been signed and the said document has been marked as Ext.A. After going through Ext.A it appears that there was altercation between her sister and her husband due to financial problem. After two and half years of solemnization of their marriage this paper shows that he took back her sister to her home due to financial crises and to provide her a better maintenance. It has also been mentioned that when financial position of the Asrullah will be better then he will sent back her sister to her matrimonial house. It also appears that on the date when this paper was prepared, on that day her daughter was born and not a single word regarding any kind of demand of dowry mental or physical torture has been averted in the said paper. Hence it is obvious that if any such issue was there between wife and husband or even with the in-laws then it must have been reflected in Ext.'A'. This paper has though been filed by the defence but PW-2 willfully identified his pen and signature even identified the signatures of the witnesses thereof which creates a suspicion over the case of prosecution. Further PW-3 is (Jija) of the informant who has very briefly supported the occurrence he has not stated anything about the allegation in a descriptive manner his evidence appears to be very crisp and not appears to be material witness. This witness has even stated that there was document prepared regarding transaction of Rs. 30,000/- but no any such statement has ever been given by the other material witnesses like informant, her father or brother. Now PW-4 is brother of the informant He has also briefly supported the occurrence in his own way but he has not been able to stated about the date or stated about any of the document filed on behalf of the informant. Hence he also not appears to be a material witness. Lastely PW-6 is distant uncle of the informant. He has also supported the case of prosecution by only stating that accused persons have demanded dowry and assaulted her. He has stated that the informant lived properly at her sasural only for a years whereas the document itself shows that the informant lived at her sasural more than

that hence he is also not appears to be material witness but this witness in his cross examination has admitted the second marriage of the informant. He has also stated that no assault took place with the informant in front of him. Hence, after going through the materials and evidences available on the record it appears that no any independent witnesses have been examined by the prosecution even the Investigating Officer has also not been examined. All the witnesses are appears to be interested and relatives of the informant, even then they have not succeeded to bring home the charges levelled against the aforesaid accused persons. Ext.A & Ext.B filed on behalf of the defence has succeeded to raise suspicion over the case of prosecution and the prosecution has failed to rebut the same. Collectively I find that prosecution has miserably failed to prove the case beyond the shadow of all reasonable doubts.

17. Hence, considering the above facts and circumstances, I find and hold not guilty the accused Md. Asrullah, Askin Parween @ Ginni, Md. Asadullah @ Saheb, Ibrarullah @ Raja, Gazala Parween @ Memin, Md. Alimmudin, Asmat Khatoon, Md. Akhtar U/s- 498 'A', 323, 406, 120 'B' I.P.C & ¾ of D.P Act. Accordingly, the accused persons namely Md. Asrullah, Askin Parween @ Ginni, Md. Asadullah @ Saheb, Ibrarullah @ Raja, Gazala Parween @ Memin, Md. Alimmudin, Asmat Khatoon, Md. Akhtar are hereby acquitted of the charges levelled against them due to lack of evidence. They are on bail. They and their bailors are also discharged from the liabilities of their respective bail bonds.

Judgement Pronounced in open court.

(Dictated & Corrected by me)

(Dictated)

Arti Mala
SDJM, Ramgarh
Dt.17.01.19

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SDJM, Ramgarh
Dt.17.01.19

