



The Court of JM 1st Class, Ramgarh

Present: Smriti Tripathi

Judicial Magistrate

13th April, 2023

District: Ramgarh

G.R. Case No. 1189/2017

CNR No. JHRG030004082017

Gola PS Case No. 99/2017

| | |
|----------------|---|
| Informant | State (through Monika Devi) |
| Represented By | <i>Smt. Manju Kachchap, Id. APP</i> |
| Accused | Madan Karmali s/o Birsai Karmali, male, aged about 34 years, r/o Purabdih Tola, Barwatand, PS Gola, Distt. Ramgarh [A1] |
| Represented By | <i>Sri Jitendra Kumar, Id. Advocate</i> |

| | |
|----------------------------------|----------------------|
| Date(s) of Offence | 07.09.17 to 15.10.17 |
| Date of FIR | 01.11.2017 |
| Date of Chargesheet | 30.03.2018 |
| Date of framing of charge | 11.04.2018 |
| Date of Commencement of evidence | 25.04.2018 |
| Date when Judgment is reserved | 13.04.2023 |
| Date of Judgment | 13.04.2023 |
| Date of Sentencing Order, if any | N/A |

| Rank of the Accused | Name of the Accused | Date of Arrest | Date of Release on Bail | Offences charged with | Whether acquitted or convicted | Sentence Imposed | Period of detention undergone during trial for purpose of s. 428, CrPC |
|---------------------|---------------------|----------------|-------------------------|--------------------------|--------------------------------|------------------|--|
| A1 | Madan Karmali | 01.02.2018 | 10.05.2018 | s. 323, 341, 498A of IPC | Acquitted | None | N/A |

J U D G M E N T

1. The afore-named accused person (Hereinafter referred to as "**A1**") is facing trial for charges framed u/s. 323, 341 and 498A of The Indian Penal Code, 1860 (Hereinafter referred to as the "**IPC**")

PROSECUTION CASE

2. The compendious case of the prosecution, as sourced from the written application of Monika Devi (hereinafter referred to as the "**informant**") is that on 30.04.2017 she

married A1 as per Hindu rites and customs and thereafter she went to her Sasural where she learnt that A1 has illicit relationship with one Payal Kumari, the daughter of Anand Upadhyay, whose Bolero vehicle A1 drives. When she asked A1 to break ties with her and not drive the said vehicle, he, alongwith his mother Shanti Devi, his father Birsai karmali, his brother Tinku Karmali and his sister Rina Devi started abusing her and stopped giving her food, etc. Then, the informant went to the house of Anand Upadhyay where A1 thrashed her on earth. When she returned to her house, Payal Kumari called her and said that if something happened to A1, the informant won't be spared. The informant claims that she has this audio recording in her possession. Then, on 07.09.2017, after hitting her, A1 left the house. She learnt from the call he made to his brother and his friend that he went to *Jhasugoda*, Odisha for work. She then went to her parent's house during *Chhath* festival. On 28.10.2017, she received the information that A1 has come to *pubabdih* village and the said Payal Kumari is also missing from her home since 15.10.2017. When she went to Gola PS she learnt that till date her parents have not filed her missing-complaint which made her believe that she has eloped with A1. Hence, this case.

FROM INVESTIGATION TILL TRIAL

3. After investigation, the Investigating Officer submitted **charge-sheet** bearing no. 31/2018 dated 30.03.2018 against A1 u/s. 323, 341, 498A of IPC and thereafter, **cognizance** was taken under the same sections by the then court on 04.04.2018.
4. After supplying police papers to A1, on 11.04.2018 **charges were framed** for the offence u/s. 323, 341, 498A of IPC against A1 and the contents were read-over to him in simple Hindi to which he pleaded not guilty and claimed to be tried. Thereafter, the case was fixed for evidence and appearance of the accused.
5. After closing the prosecution evidence on 17.02.2023, the material against A1 was put to him and his **statement** was recorded u/s. 313 of CrPC on 13.04.2023 in which he denied the material available against him and claimed to be innocent.

ARGUMENTS ADVANCES

6. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that he does not want to adduce any evidence. Upon his prayer, the **defence evidence** was closed and the matter was posted for arguments.
7. The prosecution didn't argue much in light of the lack of evidence.
8. The defense on the other hand argued that a false case has been lodged and no offence as alleged is made out from the deposition of the witnesses. It was also submitted that

the prosecution has failed to prove the guilt of A1 beyond reasonable doubt, and he thus, deserve to be acquitted.

POINTS FOR CONSIDERATION

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges u/s. 323, 341, 498A of IPC levelled against A1 beyond reasonable doubt or not. On the bedrock of the charges framed, the prosecution case will be examined on the following touchstones for the sake of a more structured analysis:

9.1 *Did A1, being the husband of the informant, subject her to cruelty of such a nature as is likely to cause her grave injury or danger to her life, limb or health?*

9.2 *Did A1 caused hurt to the informant?*

9.3 *Did A1 wrongfully restrain the informant?*

EVIDENCES

10. Before the court dwells to consider the points of determination as stated above, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference, reference to only the relevant portions of which is made at relevant parts of this judgment, although they have all been perused by this court in detail. They are:

List of Prosecution/Witnesses

A. Prosecution:

| Rank | Name | Nature of Evidence |
|------|------------------|--|
| PW01 | Dudheshwar Singh | Official Witness [Investigating Officer] |

B. Defence:

| Rank | Name | Nature of Evidence |
|-------------|------|--------------------|
| --- nil --- | | |

List of Prosecution/Defence/Material Exhibits

A. Prosecution:

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| 1. | Ext.1 | Endorsement |
| 2. | Ext.2 | Formal FIR |

B. Defence:

| Sr. No. | Exhibit Number | Description |
|-------------|----------------|-------------|
| --- nil --- | | |

C. Material Objects:

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
|---------|----------------|-------------|

| |
|-------------|
| --- nil --- |
|-------------|

FINDINGS

11. Did A1, being the husband of the informant, subject her to cruelty of such a nature as is likely to cause her grave injury or danger to her life, limb or health?; Did A1 caused hurt to the informant?; Did A1 wrongfully restrain the informant?

11.1 PW01 deposed that on 12.01.2018, he was posted at Gola PS as an ASI and was given charge of investigation by Dy. SP-cum- O/C of Gola. He then recorded re-statement of the informant and entered the written report in his diary and the case was found true against A1 and the other accused. He further deposed that on 16.01.2018, he obtained report from Gola Anchal stating that the case against accused Tinku Karmali and Rina Devi was found not true. On 01.02.2018, a raid was conducted into the house of A1 and he was arrested after not giving satisfactory reply. He deposed in para 9 that charge sheet was submitted u/s. 323, 341 and 498A of IPC against A1. He claimed to identify A1 had he been present in the court. Upon his identification, Ext.1 and Ext.2 were exhibited. In his cross-examination, he deposed that he is the part Investigating Officer of this case and in the course of investigation, he did not record the statement of witnesses with respect to the alleged incident and only submitted the charge sheet.

11.2 Apart from PW01, the prosecution has not produced even a single witness which could establish its case. The most vital witness, the informant did not turn up despite issuance of several processes and many chances given to the prosecution.

11.3 Thus, the prosecution has not been able to prove any charge against A1 and shift its burden of proof.

11.4 A1 is, in effect, acquitted of all charges.

Thus, regard being had to the material placed before this court and the discussion made above, this court is of the considered opinion that the prosecution case is shorn of even a single piece of evidence, pointing towards the guilt of A1. The prosecution has failed to establish that A1 committed the alleged offence and has thereby failed to substantiate the charges u/s. 323, 341, 498A of IPC. Hence, A1 is hereby **acquitted** in this case. A1 as well as his respective bailors stand discharged from the liabilities of their respective bail bonds.

(Dictated and corrected)

Pronounced by me in open court

Sd/-

Sd/-

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 13th April, 2023

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