

GAHC010028642017



2024:GAU-AS:12487

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./550/2017

NOTFUL ALI and 2 ORS.

S/O MD. KHAIRUDDIN AHMED PERMANENT RESIDENT OF VILL-
JABARIKUCHI, P.O. BIRKHOLA CHOWKA, P.O. BORKHOLA CHOWKA, P.S.
MANGALDOI DIST. DARRANG, ASSAM

2: IKRAMUDDIN ALI @ IKRAMUL ALI

S/O MD. KHAIRUDDIN AHMED PERMANENT RESIDENT OF VILL-
JABARIKUCHI
P.O. BORKHOLA CHOWKM
P.S. MANGALDOI
DIST. DARRANG
ASSAM

3: KHAIRUDDIN AHMED

S/O LT. MAGHUR ALI PERMANENT RESIDENT OF VILL- JABARIKUCHI
P.O. BORKHOLA CHOWKA
P.S. MANGALDOI
DIST. DARRANG
ASSA

VERSUS

THE STATE OF ASSAM and ANR.

2:MRS. SAYEDA BEGUM

D/O LT. CHOUKAT ALI PERMANENT RESIDENT OF UTTAR BOKRAJHAR
P.O. TENGABARI
P.S. KALAIGAON
DIST. UDALGURI
ASSAM
CURRENTLY RESIDING AT G.S. COLONY FARASIL
HOUSE NO. 40
P.S. BHARALUMUKH

DIST. KAMRUP M
ASSAM
PIN - 781009

Advocate for the Petitioner : MR.K MUNIR, MR.P K MUNIR,MS.A DAS

Advocate for the Respondent : PP, ASSAM, MR.A MANNAF(R-2),MRS.F BEGUM(R-2)

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

11.12.2024

1. Heard Mr. P. K. Munir, learned counsel for the petitioner. also heard Mr. A Mannaf, learned counsel for the respondent No. 2 and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.
2. The present application is filed under Section 482 of Code of Criminal Procedure, 1973 for quashing the F.I.R. registered as Bharalumukh Police Station Case No. 207/2017 under Section 498A IPC.
3. The respondent wife lodged an F.I.R. before the Officer-in-Charge, Bharalumukh Police Station on 19.04.2017 inter alia alleging that the accused petitioner married the respondent No. 2 on 12.12.2013 and on 10.04.2017, her husband went missing from 07.04.2017 along with her golden ornaments and banks documents. Thereafter, the husband sent a Talaknama from Mangaldai Sadar Kazi by post. According to her, in the said Talaknama, signature of the husband was forged inasmuch as her name was incorrectly written. It was further alleged that her husband took a sum of Rs. 1,50,000/- in the name of furniture from her elder brother and brother in law and also meted her with physical and mental torture asking

for cash. It was also alleged that on the day, when her husband was missing i.e. on 07.04.2017, elder brother of her husband asked her not to contact her husband and it was also informed her that she could stay with her husband if she brings Rs. 5 Lakhs from her residence. On the basis of the aforesaid allegation, the Bharalumukh P.S. Case No. 207/2017 under Section 498A IPC was registered.

4. The learned Sessions Judge, Kamrup (M), Guwahati under its order dated 29.04.2017 passed in A.B. No. 339/2017, granted anticipatory bail to the petitioner.
5. The learned counsel for the respondent No. 2 submits that the respondent wife had in the meantime got married to another person after the Talak pronounced by the present petitioner and she is not interested in pursuing the present petition under Section 498A IPC, however, she is still inclined to claim for her Mahr in terms of her Islamic right.
6. Be that as it may, considering the nature of allegation leveled in the FIR, this Court is of the view that no case under Section 498A IPC is made out even if the allegations are treated to be correct in its face value. Therefore, the further prosecution of the petitioner in the Bharalumukh P.S. Case No. 207/2017 under Section 498A IPC shall lead to miscarriage of justice and shall be an abuse of process of law inasmuch as victim is not interest in pursuing the case registered under Section 498A IPC.
7. Accordingly, the present petition stands allowed by setting aside and quashing the F.I.R. registered as Bharalumukh Police Station Case No. 207/2017 under Section 498A IPC. However, it is made clear that this order

shall not preclude the respondent wife to claim her right if any against her husband under personal law.

8. This criminal petition stands disposed of. LCR be returned back.

JUDGE

Comparing Assistant