

GR No. 702 of 2023 (CNR NO. WBBD0A00 7980 2023)

**IN THE COURT OF JUDICIAL MAGISTRATE, 4th COURT AT DURGAPUR,
DISTRICT- PASCHIMBARDHAMAN.**

**Present: Pinki Rani Das (JO CODE WB1268)
Judicial Magistrate, 4th Court,
Durgapur, Paschim Bardhaman.**

GR No. 702 of 2023 T.R. Number 396/2023

CIS- GR No – 1258/23

(CNR NO. WBBD0A00 7980 2023)

**(Coke Oven P.S. Case No. 58/2023 dt.15.04.2023 u/s 498A/323/406/506/34 of I.P.C and 3
& 4 D.P. Act)**

State of West Bengal

Vs

- 1. Samrat Mukhopadhyay @ Mukherjee**
- 2. Smt. Soma Mukhopadhyay @ Mukherjee**
- 3. Subhas Mukhopadhyay @ Subhas Chandra
Mukherjee**

....Accused persons

Offenses punishable u/s. 498A of IPC

Date of delivery of Judgement:- The 04th day of November, 2023

J U D G E M E N T

Prosecution Case :-

The case of the prosecution in brief is that on 15.04.2023 at 18:05 hours O/C of Coke Oven P.S. received a written Court complaint from complainant Trishna Chakraborty Mukhopadhyay duly forwarded by Ld. ACJM Durgapur Court vide MP case No. 102/ 2022 to the effect that complainant got married with accused Samrat Mukhopadhyay on 04.03.2022 as per Hindu rites and customs and dowry was given as per demand of the accused persons named above who happen to be the husband and in-laws respectively of the complainant. Thereafter complainant was subjected to torture both mentally and physically on demand of further money made by the accused persons and ultimately complainant was driven out of her material home by the accused persons.

On the basis of the written Court complaint police started the Coke Oven P.S Case no. 58/2023 dt. 15.04.2023 against the accused persons named above u/s. 498A/ 323/406/506/34 of I.P.C and U/s 3 and 4 of D.P. Act and investigation was started against the aforesaid accused persons. In course of investigation the

GR No. 702 of 2023 (CNR NO. WBBD0A00 7980 2023)

accused persons surrendered before the Court of Ld. Additional Chief Judicial Magistrate, Durgapur, Paschim Bardhaman and were enlarged on bail as per order of Ld. Additional Chief Judicial Magistrate, Durgapur, Paschim Bardhaman. After investigation Charge sheet was submitted against the accused persons above u/s. 498A/406/506/34 of I.P.C and U/s 3 and 4 of D.P. Act and cognizance was taken accordingly. Thereafter on 29.08.2023 the case record was transferred to this court for trial and disposal. On 16.09.2023 the charge was framed against the accused persons under section 498A of the I.P.C. and the substance accusation for the offence punishable u/s. 498A of the I.P.C was read over and explained to the said three accused persons to which they pleaded “not guilty” and claimed to be tried in open court.

In this case witness (CSW1) namely Trishna Chakraborty Mukhopadhyay, , i.e. de facto complainant has been examined in full as P.W.1. Written Court complaint along with signatures of PW 1 has been marked as Exhibit No. 1 as a whole and thereafter on hearing both sides in respect of the petition for closing prosecution evidence from the side of defence to which no objection raised by the Ld. App, the evidence of P.W. became closed.

After closer of evidence of P.W the examination of the accused persons under section 313 of Cr.P.C. was done and as the accused persons declined to adduce any evidence in their defence, so, evidence in this case became closed.

Now on the basis of the materials on records the following points are required to be determined for arriving at a decision in this case.

“Points for determination”

1. Whether the accused persons being husband and in law of the defacto complainant subjected to both cruelty both mentally and physically on demand of money and and thereby committed any offense punishable u/s. 498A of the I.P.C.?

“Decision with reasons”

Point Number 1 :-

During evidence PW 1 deposed that she has filed this case against her husband and in-laws due to some misunderstanding cropped up at her matrimonial home, at present she has no grievance against the accused persons. The witness has identified the accused persons and also identified the written Court complaint and her signatures thereon. During cross-examination the witness deposed that she cannot recollect the contents of the written complaint, police never interrogated her in this case.

GR No. 702 of 2023 (CNR NO. WBB0A00 7980 2023)

In this case only one witness has been examined and the oral evidence of the prosecution witness does not corroborate the prosecution as well as the contents of the written complaint. More over prosecution did not examine all the witnesses. Therefore, from the case record I find no such cogent evidence to hold that the accused persons have committed any offense as alleged against the De-facto complainant.

Accordingly, the benefit of doubts is given to the accused persons.

Thus, the prosecution case fails to succeed.

Hence, it is

ORDERED

that the accused persons **Samrat Mukhopadhyay @ Mukherjee, Smt. Soma Mukhopadhyay @ Mukherjee, Subhas Mukhopadhyay @ Subhas Chandra Mukherjee** are found not guilty for the offence punishable u/s 498A of I.P.C and they are hereby acquitted from this case u/s 248(1) of Cr.P.C. The accused persons are set free and also released from their respective bail bonds. The seized articles, if any, be disposed of as per law after the expiry of the period of appeal.

The complainant/ victim has the right to prefer an appeal under proviso to section 372 of the Code of Criminal Procedure and if necessary, to avail free legal assistance through the legal services authorities concerned to prefer and prosecute such appeal.

Let a copy of this judgment be sent to the District Magistrate, Paschim Bardhaman and concerned District Legal Service Authority, Paschim Bardhaman for due intimation to the victim as defined under section 2 (wa) of the Code of Criminal Procedure.

Dictated and Corrected by me :

Pinki Rani Das (JO CODE WB1268)
Judicial Magistrate, 4th Court,
Durgapur, Paschim Bardhaman.

Pinki Rani Das (JO CODE WB1268)
Judicial Magistrate, 4th Court,
Durgapur, Paschim Bardhaman.