

District: Murshidabad

In the Court of Additional Chief Judicial Magistrate, Lalbagh

Present: Shri Arindam Datta
Additional Chief Judicial Magistrate, Lalbagh

J.O Code-WB948

Case No:- G.R- 583/2017
T.R No. 248/2022
CNR No. WBMD090044042022
(CIS No. G.R 1885/2022)

STATE

versus

- 1) Jiarul Sk,
- 2) Asrop Sk
- 3) Tarjia Bibi and
- 4) Saddam Sk.

Accused persons.

Allegations under Sections- 498A/323/34 of IPC & 3/ 4 of
D.P. Act.

Judgment delivered on 16/09/2022.

J U D G E M E N T

Prosecution case as delineated in the complaint sans prolixity is that Kabira Bibi was married with accused Jiarul Sk about 6 ½ years ago according to Muslim rites. After marriage she went to her matrimonial house and started their conjugal life. The de facto complainant stated in her petition of complaint that since after her marriage the accused persons started torture both physical and mental upon her as she could not bring more money from her parents as per the demand of the accused persons. Subsequently on 28th Magh of Bengali year, 1423 due to non fulfillment the demands of the accused person

assaulted her by fists and blows. She put up with all the torture silently. The torture on her increased many folds. Ultimately the accused persons threw her out of her matrimonial house. Accordingly Murshidabad PS case No. 99/2017 dated 07/03/2017 U/S 498A/325/34 of the IPC and 3/ 4 D. P Act and was started against the accused person and police investigated the case.

After completion of the investigation, the Investigating Officer submitted charge sheet vide No. 117/17 dated 26/03/2017 U/S 498A/323/34 I.P.C & 3/ 4 of D. P Act against above named accused persons and on 19/04/2017 this court was pleased to take cognizance of the offence and took up the case for disposal. The accused persons obtained bail from the Court and they are on bail now.

On 16/09/2022 after considering the materials on record charge U/S 498A/323/34 I.P.C & 3/ 4 of D. P Act was framed against the accused persons and the contents of charge was read over and explained to the accused persons to which they pleaded “not guilty” and claimed to be tried in open court. Hence, this trial.

After completion of the evidence of the prosecution the accused persons were examined U/S 313 of the Code of Criminal Procedure to which they pleaded their innocence and declined to adduce any evidence. The defence case as it appears from the trend of cross examination of the prosecution witness is the plea of innocence and denial of prosecution story. The accused persons declined to adduce any evidence on their side.

P O I N T S F O R C O N S I D E R
A T I O N

- 1) Whether the accused persons being the husband and in-laws of Kabira Bibi subjected her to cruelty?
- 2) Whether the accused persons caused hurt to Kabira Bibi by assaulting her physically?

- 3) 2) Whether the accused persons subjected Kabira Bibi to cruelty in furtherance of their common intention?

D E C I S I O N W I T H R E A S
O N S

All three points are inter-linked and as such they require conjoint discussion. Thus, both points are taken up together for discussion in order to avoid unnecessary repetition.

It is the cardinal principle of criminal jurisprudence is that the prosecution has the onerous duty to prove its case beyond any reasonable doubt. Now it is time to take a plunge into the evidence of prosecution in order to fathom out as to whether prosecution has been able to discharge its burden or not.

It is pertinent to note here that the prosecution has adduced only the defacto complainant Kabira Bibi in this case as the P.W. 1.

Having gone through the testimony of the PW1, alleged victim of this case it is found that she deposed in her examination in chief that she had filed this case against four accused persons who is her husband and in-laws for inflicting physical and mental cruelty upon her. She has no allegation against the accused persons at present.

PW1 has further stated in her **cross examination** that at present she is living in her matrimonial house. She has no objection if the accused persons are acquitted from this Case.

Therefore, it is crystal clear that the prosecution took little effort to prove its case. The PW1 did not depose anything about the alleged incident which she made in her FIR; rather she unequivocally

said in her examination that she has no allegation against her divorced husband. Thus, I have no hesitation to hold that the case of the prosecution has not been proved in any manner. In the above facts and circumstances of this case the accused persons are entitled to be acquitted from this case.

Hence, it is,

O R D E R E D

That the accused persons, namely, 1) Jiarul Sk, 2) Asrop Sk 3) Tarjia Bibi and 4) Saddam Sk are found not guilty for the offence punishable under Section 498A/323/34 I.P.C & 3/ 4 of D. P Act and accordingly they are acquitted from this case under Section 248(1) of the Code of Criminal Procedure. The accused persons are released from their respective bail bonds and they are set at liberty.

Dictated & Corrected by

A.C.J.M., Lalbagh
Magistrate, Lalbagh

(ARINDAM DATTA)
Addl. Chief Judicial

J.O Code-WB948.