

IN THE COURT OF THE JUDICIAL MAGISTRATE,
Dantan, Paschim Medinipur.

Present: ALI ASGOR ALLAUDDIN AHMAD, Judicial Magistrate First Class

G.R. Case No: 527/2009
TR 77/2014

State
v/s

1. Anandi Nandan Dey
2. Amullya dey
3. Rajendra dey
4. Hari Shankar dey
5. Sandhya dey
6. Smt. Rupali dey
7. Smt. Sumita dey

..... Accused persons

Under Section: 489A/323/34 of I.P.C

Date of delivery of Judgment: 13/10/2017

JUDGEMENT

1. This is a case under section 498A/323/34 of I.P.C and the inception of the prosecution's case lies in a petition of complaint filed by one Smt. Susmita Dey, Wife of late Ashit Baran Dey of Malpara, under P.S. - Mohanpur on 28.03.2009 to the effect that she got married with the son of accused no. 1 on 01/05/2006 as Hindu Rites and Customs and she went to her matrimonial home along with Rs. 25,000/-; four and half 'Vories' of golden jewellery and other valuable articles. She started to live with him as husband and wife at her matrimonial home. A male child was born from their wedlock. But soon after marriage her-in-laws viz. her father-in-law, mother-in-law, uncle-in-law and aunty-in-law started to torture her for more dowries and being protested, she was subjected to both physical and mental torture by her in-laws except her husband for Rs.19,000/-. Ultimately, on 11/01/2009, articles valued Rs. 19,000/- was given by the father of de-facto complainant to the accused persons and at that the husband of the de-facto requested accused persons to hand over said articles to him but without any

result. At that time, a male child was born from their wedlock and she became seriously ill but she was not treated by any doctor due to the negligence of the accused persons. When the husband of the de-facto complainant wanted said Rs. 19,000/- (given by his father-in-law) for treatment of the de-facto complainant; he was mentally and physically tortured by the accused persons and as a result of this, he became mentally depressed. Ultimately, on 02/03/2009, the husband of the de-facto complainant tried to commit suicide by poison and he was admitted to Mohanpur Bagdah B.P.H.C and thereafter shifted to Egra Hospital wherein he died. Hence this case was filed on the basis of that incident.

2. After receiving the said written complaint Mohanpur P.S lodged a formal F.I.R. no. 16 of 2009 dated 28/03/2009 and a case was started against the F.I.R. names accused person U/s.498A/323/34 of the I.P.C. The case was investigated by S.I Anukul Jana of Mohanpur P.S. and after investigation the I/O submitted Charge Sheet against the accused persons being C/S no.36/10 dated 29.06.2010 U/s. 498A/323/34 of I.P.C before Ld. C.J.M, Paschim Medinipur. After taking cognizance the Ld. C.J.M transferred the same on 25.11.2014 before this Court for trial and disposal.

3. The section being Magistrate triable and warrant procedure, charge was framed against the accused persons U/s. 498A/323/34 of I.P.C on 04.06.2016. The said contents of the charge was read over and explained to the accused persons in Bengali and they were asked whether they pleaded guilty or not. The accused persons pleaded not guilty by saying “Ami Nirdosh” and claimed to be tried. Hence, trial started.

EVIDENCE ON RECORD

4. In order to prove the case of the prosecution, only two witnesses were examined, being, P.W.1 Susmita Dey the complainant of this case, P.W-2 namely, Chittaranjan Dey and P.W-3 namely, Subhas Chandra Dey. Despite utmost endeavor of this court in order to make the witnesses turn up, the

prosecution failed to bring any further witnesses and as such the evidence on the part of the prosecution was closed.

5. The all accused persons were examined under section 313 of Cr. P.C on 15.09.2017. The accused persons declined to adduce any evidence in their favour.

POINTS FOR DETERMINATION

6. Whether the accused persons are guilty of the offences punishable U/s. 498A/323/34 of I.P.C.?

7. Whether the prosecution has been able to prove the offences U/s. 498A/323/34 of I.P.C against the accused persons beyond the shadow of all reasonable doubt?

DECISION WITH REASONS

8. Both the points are taken up together for discussion for the sake of convenience as they are related to each other.

9. At the time of argument Ld. Advocate for the accused persons and Ld APP, Categorically stated and made their respective points in regard to their own case.

10. On scanning and careful perusal of the evidences as garnered on record, to determine whether the allegations labelled against the accused persons has been proved by the prosecution beyond the shadows of reasonable doubt or not?.

11. I find that the P.W.1 during her deposition narrated all the facts written in F.I.R., but during her cross-examination she has admitted by stating that I cannot remembered the detail of torture and behavior toward me by accused persons. Said P.W-1 has also admitted during her cross-examination by stating that I do not want to proceed to proceed with the case. Similarly, the P.W.-2 namely, Chittaranjan Dey, has admitted that he knew Susmita Dey but he could not say against whom she had filed this case. Said P.W-2 has also admitted during his cross-examination by stating that he did not know anything regarding this case. Again, the P.W.-3 namely, Subhas Chandra Das, has admitted that he did not knew Susmita Dey. Said P.W-

3 has also admitted during his cross-examination by stating that he did not know anything regarding this case.

12. On analyzing the above discussed aspects and also considering the entire evidences as available from the record, it is clear that there is not a single element that can hold the accused persons to be guilty of the offences charged against them beyond all shadows of reasonable doubt. Hence, this court finds it fit and proper to acquit the accused person from this case.

Hence,

it is,

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that the accused persons namely Anadi Nandan Dey, Amullya Dey, Rajendra Dey, Hari Shankar Dey, Smt. Sandhya Dey, Smt. Rupali Dey and Smt. Susmita Dey are found not guilty of the offences punishable U/s. 498A/323/34 of the I.P.C and they are hereby acquitted u/s 248(1) of the Cr. P.C.

The accused persons as well as their sureties are hereby discharged from their respective bail bond liabilities.

Dictated and Corrected

(ALI ASGOR ALLAUDDIN AHMAD)

Judicial Magistrate,

Dantan; Paschim Medinipur

(ALI ASGOR ALLAUDDIN AHMAD)

Judicial Magistrate,

Dantan; Paschim Medinipur