

Form A

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| IN THE COURT OF ADDITIONAL SESSIONS JUDGE FT – 1ST COURT<br>PASCHIM MEDINIPUR<br>Present : Subrata Ghosh (WB 01028) Sessions Judge / Magistrate<br><br><b><u>Sessions Case No.- 65 (06) 2025</u></b><br><br>[Date of the Judgement / Order U/s. 235(1) Cr.P.C. : 06.04.2026]<br>(Date of Record Receiving : 07.08.2025)<br><b>(R – 443/2025)</b><br>CNR : WBWM01-006191-2025<br>Ref : Garhbeta P.S. Case 176/2024 dated 17.06.2024<br><br>(Details of FIR/Crime and Police Station) |                                                                                      |
| Complainant : Nesab Ali Pathan.<br>S/O. Abdul Sattar Pathan.<br>Village – Nabkola, P.O. -Satbankura,<br>P.S. - Garhbeta,<br>Dist – Paschim Medinipur.                                                                                                                                                                                                                                                                                                                               | STATE OF WEST BENGAL<br><br>OR<br><br>NAME OF THE COMPLAINANT                        |
| REPRESENTED BY                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | NAME OF THE ADVOCATE<br>Sri Sutirtha Paria                                           |
| ACCUSED : Private Defence Advocate.<br>For all the accused persons.                                                                                                                                                                                                                                                                                                                                                                                                                 | 1. NAME WITH ALL PARTICULARS<br>(A1)<br>Kudrat Ali Khan, Samsur Khan and Jaheda Khan |
| REPRESENTED BY                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | NAME OF THE ADVOCATES                                                                |
| STATE : Public Prosecutor                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Smt. Poulomi Kala Bera                                                               |

FORM B

|                                      |                                 |
|--------------------------------------|---------------------------------|
| Date of Offence                      | Since marriage till 17.06.2024. |
| Date of FIR                          | 17.06.2024.                     |
| Date of Charge-sheet                 | 30.06.2024.                     |
| Date of Framing of Charges           | 10.09.2025.                     |
| Date of commencement of Evidence     | 14.11.2025                      |
| Date on which Judgement is Reserved  | NA                              |
| Date of the Judgement                | 06.04.2026                      |
| Date of the Sentencing Order, if any | NA                              |

Accused details :

| Rank of the Accd. | Name of 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 Section 428, Cr.P.C. |
|-------------------|-----------------|--------------------------------------------|-------------------------------------|------------------------------|--------------------------------|------------------|--------------------------------------------------------------------------------|
| A1                | Kudrat Ali Khan | 18.06.2024                                 | 21.06.2024                          | U/s. 498A/323/307 506/34 IPC | Acquitted                      | N.A.             | Nil.                                                                           |
| A2                | Samsur Khan     | Surrendered before the Court on 24.06.2024 | Released on A.I. bail on 24.06.2024 | U/s. 498A/323/307 506/34 IPC | Acquitted                      | N.A.             | Nil.                                                                           |
| A3                | Jaheda Khan     | Surrendered before the Court on 24.06.2024 | Released on A.I. bail on 24.06.2024 | U/s. 498A/323/307 506/34 IPC | Acquitted                      | N.A.             | Nil.                                                                           |

Form C

LIST OF PROSECUTION / DEFENCE /COURT WITNESSES

A. Prosecution :

| RANK    | NAME              | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|---------|-------------------|-----------------------------------------------------------------------------------------------------------------|
| P.W.-1  | Nesab Ali Pathan  | Defacto-complainant                                                                                             |
| P.W.-2  | Rabia Pathan      | Wife of the defacto-complainant                                                                                 |
| P.W.-3  | Liyakat Mallick   | Relative of defacto-complainant                                                                                 |
| P.W.-4  | Hasibul Pathan    | Relative of defacto-complainant                                                                                 |
| P.W.-5  | Nasbahar Khan     | Neighbour of defacto-complainant                                                                                |
| P.W.- 6 | Surma Khan Pathan | Victim and daughter of defacto-complainant                                                                      |

B. Defence Witnesses, if any :

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, |
|------|------|----------------------------------|
|------|------|----------------------------------|

|      |  |                                                                                               |
|------|--|-----------------------------------------------------------------------------------------------|
|      |  | <b>POLICE WITNESS, EXPERT WITNESS,<br/>MEDICAL WITNESS, PANCH WITNESS,<br/>OTHER WITNESS)</b> |
| DW 1 |  |                                                                                               |
| DW 2 |  |                                                                                               |

C. Court Witnesses, if any:

| <b>RANK</b> | <b>NAME</b> | <b>NATURE OF EVIDENCE (EYE WITNESS,<br/>POLICE WITNESS, EXPERT WITNESS,<br/>MEDICAL WITNESS, PANCH WITNESS,<br/>OTHER WITNESS)</b> |
|-------------|-------------|------------------------------------------------------------------------------------------------------------------------------------|
| CW 1        |             |                                                                                                                                    |
| CW 2        |             |                                                                                                                                    |

**LIST OF PROSECUTION / DEFENCE /COURT EXHIBITS**

A. Prosecution :

| <b>Sr.<br/>No.</b> | <b>Exhibit Number</b> | <b>Description</b>                         |
|--------------------|-----------------------|--------------------------------------------|
| 1                  | 1                     | Signature of P.W.- 1 on written complaint. |

B. Defence :

| <b>Sr.<br/>No.</b> | <b>Exhibit Number</b> | <b>Description</b> |
|--------------------|-----------------------|--------------------|
| 1                  | Exhibit D-1/DW1       |                    |
| 2                  | Exhibit D-2/DW2       |                    |

C. Court Exhibits :

| <b>Sr.<br/>No.</b> | <b>Exhibit Number</b> | <b>Description</b> |
|--------------------|-----------------------|--------------------|
| 1                  | Exhibit C-1/CW1       |                    |
| 2                  | Exhibit C-2/CW2       |                    |

D. Material Objects :

| <b>Sr.<br/>No.</b> | <b>Material Object<br/>Number</b> | <b>Description</b> |
|--------------------|-----------------------------------|--------------------|
| 1                  | MO 1                              |                    |
| 2                  | MO 2                              |                    |

**Date of delivery of judgment :- The 6<sup>th</sup> Day of April, 2026.**

## **J U D G E M E N T**

The de facto complainant Nesab Ali Pathan, S/o Late Abdul Sattar Pathan of Village - Nabkola, P.O. – Satbankura, under P.S. - Garhbeta, Dist. - Paschim Medinipur filed a complaint against the accused persons, namely, Kudrat Ali Khan, Samsur Khan and Jaheda Khan before the Inspector-in-Charge, Chandrakona Beat House under Garhbeta Police Station stating that, her daughter Surma Pathan Khan got married with accused Kudrat Ali Khan according to Muslim rites and customs. After her marriage she went to her matrimonial home and lived with the accused persons. In her matrimonial home she was subjected to physical and mental torture in connection with various household issues. In course of her conjugal life the victim gave birth to one male child and two female children. The defacto-complainant further stated that, on 17.06.2024 at about 3:00 hours her husband, namely, Kudrat Ali Khan and other in-laws tried to kill the victim by throttling her with one electric wire. On the same day the accused persons also tried to kill the son of the victim, namely, Imroj Pathan by throttling. Thereafter the victim was driven out from her matrimonial home along with her two minor children. The victim along with her two sons took shelter at her parental home. She was medically treated at Dwarigeria Rural Hospital. Consequently on 17.06.2024 the complainant lodged a complaint before the Inspector-in-Charge, Chandrakona Beat House under Garhbeta Police Station and Garhbeta Police Station on the basis of complaint submitted by the defacto-complainant initiated vide Garhbeta Police Station Case No. 176/2024 dated 17.06.2024 u/s 498A/323/307/506/34 I.P.C. against the aforementioned accused persons.

The then Officer-in-Charge of the Police Station subsequently endorsed A.S.I. Subrata Kumar Paul as the Investigating Officer of the case.

During investigation the I.O visited the P.O, recorded the witnesses statement u/s 161 Cr.P.C, and after completion of the investigation he submitted the charge sheet being no. 177/2024 dated 30.06.2024 with the self same sections against the accused persons.

The accused persons namely, Kudrat Ali Khan, Samsur Khan and Jaheda Khan obtained bail from the Learned Additional Chief Judicial Magistrate, Garhbeta, Paschim Medinipur.

The cognizance upon the charge sheet was taken on 19.10.2024 and the case was committed before the Ld. Sessions Judge, Paschim Medinipur, on 02.05.2025 with the accused persons on bail.

The Learned Sessions Judge, Paschim Medenipur received the record on 23.06.2025 and took the formal cognizance of case on the very same date.

This court received the record on 07.08.2025 and after perusing the CD and materials on record the charge against the three accused persons was framed on 10.09.2025 u/s 498A/323/307/506/34 of the IPC and read the same by which they claim “not guilty” and prayed for trial under the cognizance of this Court. The accused persons happen to be the matrimonial relatives of the victim.

**During trial, out of 8 C.S. witnesses, 06 were examined.**

### **EVIDENCE ON RECORD:**

The de facto complainant was examined as P.W.1. He deposed that there was misunderstanding and dispute between his daughter and her accused persons and in-laws so he lodged the complaint out of anger and frustration.

P.W.-2 is the wife of defacto-complainant and P.W.-3, P.W.-4 and P.W.- 5 and relatives and neighbour of defacto-complainant. All of them echoed and repeated the evidence of P.W.-1.

P.W.-6 is the victim and daughter of the defacto-complainant. She also deposed to the tune of previous witnesses. She deposed that, she had dispute and misunderstanding with her husband and in-laws due to which her father lodged a complaint against her husband and in-laws.

The accused persons were examined u/s. 313 Cr.P.C. on 06.04.2026 and they denied the allegation as well as they declined to adduce any evidence on their behalf. The argument also heard on 06.04.2026.

### **ARGUMENT**

During argument, the Ld. advocate for the prosecution stated that the victim was married to the accused Kudrat Ali Khan. After marriage complainant’s daughter went to her matrimonial home where she had to face the physical and mental torture in the hands of accused persons who happen to be her in-laws. She and her son Imroj Pathan were mercilessly assaulted on 17.06.2024. The accused persons also tried to kill the victim and her said son by strangulation and lastly the victim and two of her minor children were driven out of their home. The victim with her minor children was forced to take shelter at her parental house. The written complaint was exhibited where from it is explicit that the

accused persons tried to kill her causing injury to the victim. The prosecution strongly harped upon the point that it is a non-compoundable case and these types of sessions triable offences and allegations cannot be compounded or compromised in between the parties.

The Ld. advocate on behalf of the accused persons submitted that this is a case of no evidence since the complainant admitted in the course of his cross-examination that there was a family dispute, so he lodged the complaint but their dispute is now settled. None of the prosecution witness tried to throw light upon the alleged incident but all of them clearly and unequivocally asserted that the victim is now living happily in her matrimonial home. Moreover, the doctor was not examined by the prosecution nor the injury report, if any was marked for which he argued that it is a fit case for acquittal of the accused persons.

### **POINTS FOR CONSIDERATION**

1. Whether the accused persons have committed the offences punishable u/s. 498A/323/307/506/34 of I.P.C.?
2. Whether the prosecution has been able to prove the case beyond the shadow of reasonable doubt ?

### **DECISION WITH REASONS**

Before delving deep into the matter lets have a quick glance at the ingredients of statutory provisions of the above alleged sections.

The essential ingredients of the above offence of husband or relative of husband of a woman subjecting her to cruelty under **Section 498A IPC** are as follows:

- (1) A woman was married;
- (2) She was subjected to cruelty;
- (3) Such cruelty consisted in -

(I) any lawful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life, limb or health whether mental or physical;

(ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her

relations to meet the lawful demand;

(iii) the woman was subjected to such cruelty by her husband or any relation of her husband.

The essential ingredients of the offence **under section 323 I.P.C.** are as follows:

- (1) The accused voluntarily caused bodily pain, disease or infirmity to the victim.
- (2) The accused did so with intention of causing hurt or with the knowledge that he would thereby cause hurt to the victim.

The essential ingredients of the above offence of attempt to commit murder **under section 307 IPC** are as follows:

- (1) The accused did some act;
- (2) Such act was done with intention or knowledge that hurt was likely to be caused to the victim by the act.

The essential ingredients of the above offence of criminal intimidation **under section 506 IPC** are as follows:

- (1) The accused threatened someone with injury to his person, reputation or property, or to the person, reputation or property of another in whom the former was interested;
- (2) The accused did so with intent to cause alarm to the victim of offence;
- (3) The accused did so to cause the victim to perform any act which he was not legally bound to do.

P.W.-5 is the most vital / important / principal witness of this case since she is the alleged victim herein. From the meticulous introspection of her evidence it appears that she is very reluctant to open up before the Court in respect of her allegations in spite of the fact that the F.I.R. has been marked as Exhibit -1. The allegations in Exhibit -1 is quite serious and is a cause of concern but the witness did not corroborate or support the materials / allegations alleged therein. She cut short her allegations by simply deposing that there was a family/ matrimonial dispute for which her lodged the complaint.

I am of the view that there is a sea-wide between the family dispute and infliction of torture / mental cruelty upon the victim.

Lets now try to analyse the meaning of the terms 'family disputes'. Family disputes encompasses the legal matters related to family relationships, such as marriage, divorce, custody, spousal support, property division, and more. Family disputes arise when disagreements related to these areas cannot be amicably resolved. These disputes might involve issues like child custody, division of property, or spousal support.

When these disputes escalate and cannot be resolved privately or through mediation, litigation comes into the picture. Litigation refers to the process of taking legal action where family law issues are addressed and resolved in Court. Thus, the terms family disputes is / has a wide connotation encompassing multifarious matters / issues which are generally civil in nature which may or may not be resolved amicably but the allegations herein is much more than that of just family matters.

At the cost of repetition, I do like to mention here that the victim did not try to elucidate, narrate, or picturize the mode, manner of the alleged assault / incident.

Admittedly, the victim is a married woman. After marriage she went to her matrimonial home and resided with her husband and other in-laws. Though in the petition of complaint it is alleged that, that she was subjected to cruelty by the accused persons whether it be physically or mentally but she has failed to assert, substantiate or press her allegations during trial as voiced earlier in her FIR.

The ingredients of section 307 IPC requires that the act must be done with such intention or knowledge, or done under such circumstances that if death be caused by that act the offence of murder will emerge. To constitute an offence under the section, it has to be seen whether the act, irrespective of the result, was done with the intention or knowledge and under circumstances as mentioned therein. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence under the section. Since the intention precedes the Act, such intention has to be gathered from all circumstances but unfortunately neither the doctor was examined nor injury report was marked by the prosecution to substantiate the alleged, injury, assault or offence.

On close scrutiny of the evidence on record I find the essential ingredients of the offence of attempt to commit murder under section 307 IPC is absent. Though it is alleged in the written complaint that, the accused persons tried to kill the victim lady and her minor son by means of strangulation with an electric wire, but such allegations are not corroborated by any substantive evidence. On the contrary, all the witnesses, including the

defacto-complainant (P.W.-1) and the victim lady (P.W.-6) reiterated that, now the dispute has been settled between the parties and the victim lady is residing peacefully and happily with her husband and in-laws. P.W.- 1 who is the defacto-complainant and father of the victim lady, himself admitted in his examination-in-chief that, there was misunderstanding between her daughter and accused persons which led to the filing of this case.

Now comes allegation punishable u/s 323/506 I.P.C. From the four corners of the evidences on record, I do not find anything which may corroborate or substantiate this allegation. Even the victim herself is reluctant to give an account of such cruelty or that, of criminal intimidation. Though it is alleged in the written complaint that, the victim suffered injuries for which she had to be medically treated at Dwarigeria Rural Hospital, but I did not find any attempted corroboration from the part of any of the prosecution witnesses. Neither any doctor was cited as prosecution witness nor any piece of medical paper was produced before this Court to prove the factum of injury on the person of victim. In the absence of such evidence or prosecution witness this Court cannot rely on the mere allegations of the written complaint.

All the above points for consideration are taken up for discussion together, discussed and disposed of in the negative.

In view of the serious lacuna in the prosecution case, I am constrained to hold that the prosecution has miserably failed to make out any case against the accused persons at all.

Hence, it is

### **ORDERED**

That the accused persons, Kudrat Ali Khan, Samsur Khan and Jaheda Khan are found not guilty of the offences under sections 498A/323/307/506/34 of I.P.C. and they are acquitted u/s. 235(1) of Cr.P.C.

The accused persons will be released from their respective bail bonds after six months in view of provision under section 437A Cr.P.C. and after the said period the sureties will be released automatically if any appeal is not preferred against this Judgement before the Higher Forum.

The seized articles if any, be destroyed after the appeal period.

Let the record be dispatch to the record room as per rules. B.C. to do the needful.

Upload the Judgement in the CIS. Make note in the register accordingly.

Let a copy of this judgement be sent to the DLSA, Paschim Medinipur for information.

Addl. Sessions Judge,  
Fast Track 1<sup>st</sup> Court, Paschim Medinipur.  
Date: 06.04.2026