

DISTRICT : SOUTH 24 PARGANAS

IN THE COURT OF : JUDICIAL MAGISTRATE, 6TH COURT,
SEALDAH

PRESENT : PAMELA GUPTA
Judicial Magistrate, 6th Court In charge
Sealdah, South 24 Parganas

Friday the 16th day of August, 2024

GR Case No. 767/2022
(CIS Regn. No. 767/2022)
CNR No. WBSP0A-001456-2022
TR No. 69/2023

The allegation under Sections 498A/406/34 Indian Penal Code and 3/4 D.P Act, 1860 arising out of Ultadanga WPS Case no. 06 dated 29.03.2022.

Complainant State of West Bengal
Noor Ashan (De facto complainant)

Represented by Ld. APP Sri Arindam Chatterjee

Accused Md. Athar Zakaria, S/O SK. Md Zakaria... A1
A1 is residing at AS/70/BL-F/910, Mandalgathi Khar Math, Kolkata 52
Sk. Md. Zakaria, S/o Late Nizamuddin
.....A2
A2 is residing at AS/70/BL-F/910, Mandalgathi Khar Math, Kolkata 52

Khurshid Jahan @ Phooltusi, S/o Late Niamuddin
..... A3

A3 is residing at AS/70/BL-F/910, Mandalgathi Khar Math, Kolkata 52
Negar Anjum, D/o SK. Md. Zakaria,.....
A4

A4 is residing at AS/70/BL-F/910, Mandalgathi Khar Math, Kolkata 52

Represented by Ld. Defense Counsel Mr. Shahid Nayier

Date of offence	Since after marriage i.e. 01.03.2015 to till date
Date of FIR	29.03.2022
Date of charge sheet	04.07.2022
Date of plea hearing	06.06.2023

Date of commencement of evidence				16.09.2024			
Date on which Judgment is reserved				16.08.2024			
Date of the Judgment				16.08.2024			
Date of the sentencing order, if any				Not applicable			
Rank of the accused	Name of the accused	Date of arrest	Date of release or bail	Offences oncharged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of Section 428 of CR.P.C
A-1	Md. Athar Zakaria	Surrendered on 21.05.2022	21.05.2022	Sections 498A/406/3 4 Indian Penal Code and 3/4 D.P Act	Acquitted	Not applicable	Not applicable
A-2	Sk. Md. Zakaria	Surrendered on 11.05.2022	11.05.2022	Sections 498A/406/3 4 Indian Penal Code and 3/4 D.P Act			
A-3	Khurshid Jahan @Phooltusi	Surrendered on 11.05.2022	11.05.2022	Sections 498A/406/3 4 Indian Penal Code and 3/4 D.P Act			
A-4		Surrendered on 11.05.2022	11.05.2022	Sections 498A/406/3 4 Indian Penal Code and 3/4 D.P Act			

List of Prosecution witnesses:

Rank	Name	Nature of evidence
PW1	Noor Afshan	Eye witness (De facto complainant)
PW2	Izharul Haque	Eye witness

List of Prosecution exhibits:

Serial No.	Exhibit Number	Description
01	Exhibit 1	Signature of the P.W1 on the written complaint

Defense witness: No evidence was adduced from the side of the accused persons.

Court witness: Nil

JUDGMENT

1. Prosecution case:

1.1 The prosecution case arises from a First Information Report lodged by the de facto complainant (hereinafter referred to as the D/C) received to the effect that the accused no. 1 being the husband and accused nos. 2-4 being in laws of complainant physically torture since the inception of marriage dated 01.03.2015 for the demand of more dowry and also misappropriated her stridhan articles. The cumulative effect of such events gave rise to the instant case.

1.2 Over the complaint one specific case being no. Ultadanga WPS Case no. 06 dated 29.03.2022 u/s Sections 498A/406/34 Indian Penal Code and 3/4 D.P Act was registered against the present accused persons.

2. Investigation and filing of charge-sheet:

2.1. After investigation, Police submitted charge-sheet no. 13/2022 dated 04.07.2022 against the accused u/s Sections 498A/406/34 Indian Penal Code and 3/4 D.P Act.

2.2 The cognizance of the case was taken by the Ld. Additional Chief Judicial Magistrate, Sealdah on 25.08.2022 and the record was sent to this Court for disposal.

3. Appearance and framing of charge:

3.1 On perusal of the materials on record, it appears that after the case record was transferred to this Court, the accused persons were examined under Section 240 of Code of Criminal Procedure. The substance of the accusation was read over to the accused persons to which they pleaded "not guilty" and claimed to be tried. Such being the case, the accused were charged for commission of offences punishable u/s- 498A/406/34 Indian Penal Code and 3/4 D.P Act.

4. Commencement of trial and examination of accused under Section 313 of the Code of Criminal Procedure:

4.1 After consideration of charge, the trial commenced by taking evidence of two prosecution witness. CSW-1 namely, Noor Afsan was examined as P.W1 and discharged. CSW-2 namely, Izharul Haque was examined as P.W2 and discharged. Cross examination of the witnesses was declined by Ld. Advocate for the accused. Thereafter, on completion of evidence, the present accused persons were examined u/s 313 of the Code of Criminal Procedure and they all pleaded innocence and declined to adduce any evidence on their behalf. Argument is heard.

5. Points for determination:

- 1) Whether the accused has committed the offence u/s- 498A/406/34 Indian Penal Code and 3/4 D.P Act ?
- 2) Whether the prosecution has proved the guilt of the accused persons beyond any reasonable doubt ?

6. Decision with reasons:

6.1 For the sake of brevity and convenience, both the points are taken together for consideration. From the substance of evidence of the prosecution witnesses i.e., P.W 1, it reveals that the witness is the D/C lady and is also the alleged victim of the case. During her deposition P.W. 1 i.e., the de facto complainant has stated that she has no grievance to ventilate against the accused persons neither has any allegation against the accused persons. P.W 2 in tune with the P.W 1 deposed that he does not have any allegation against the accused persons.

Thus, even after exhaustion of all the materials available on record the prosecution failed to establish the guilt of the accused beyond any reasonable doubt. As a result, culpability of the accused cannot be drawn in the event of the alleged cause of action itself becoming suspicious.

It is a well-settled principle that the prosecution must prove its case beyond reasonable doubt to sustain the accusation of the accused person which they have failed to discharge in this case. Thus, the case fails miserably and this Court has no other alternative but to hold the accused person innocent and accordingly acquit her from the charges of this case.

Hence, it is

ORDERED

that the accused persons namely, 1) Md. Athar Zakaria, 2) Sk. Md. Zakaria, 3) Khurshid Jahan @ Phooltusi and 4) Negar Anjum found not guilty of committing the offences punishable under section 498A/406/34 Indian Penal Code and 3/4 D.P Act. They are hereby acquitted under the provisions laid down under Section 248(1) of Code of Criminal Procedure.

The accused be discharged forthwith from their bail bonds and set at liberty. The sureties be discharged from their respective bail bonds.

In view of the direction of the Hon'ble Court In Sabitri Bhunya Vs. State of West Bengal and Others vide CRA 266 of 2020 with CRAN 1 of 2020, the victim has right to prefer an appeal and if necessary to avail free legal assistance through the Legal Service Authority Concerned to prefer and

prosecute such appeal.

In view of the direction of the Hon'ble Court In Sabitri Bhunya Vs. State of West Bengal and Others vide CRA 266 of 2020 with CRAN 1 of 2020, let a copy of this judgment be forwarded to District Magistrate, South 24 Parganas and D.L.S.A., South 24 Parganas for due intimation to the victim.

Copy of this judgment be supplied to the aggrieved person and the accused free of cost and if applied for, certified copy of the same be also supplied.

Seized alamats, if any, be disposed off after the statutory period of appeal expires.

The case is thus, disposed of.

Note in the relevant register.

Dictated and Corrected by me

Judicial Magistrate
6th Court, Sealdah I/C

Judicial Magistrate
6th Court, Sealdah I/C

(J/O Code: WB01440)