

<u>IN THE COURT OF JUDICIAL MAGISTRATE, BARUIPUR</u> Present: Ms. Ishita Acharya J.O. Code- WB01401 <u>Date of Judgment-6.11.2023</u> <i>Case no:- <u>G.R. Case No.3643 of 2022</u></i> <i>CIS No.:<u>-3643 of 2022</u></i> <i>CNR NO.:<u>-WBSP0F0020572022</u></i> <i>T.R.No.:<u>-138/23</u></i> <i>State</i> vs. <i>Dipendu Mondal</i> F.I.R No.-602/2022 dated- 2.06.2022 of Sonarpur P.S.	
Complainant	STATE
Represented By	Mr. Dipu Pal
Accused	Dipendu Mondal
Represented By	Mr. Ranjan Neogi

FORM B

Date of Offence	Various days preceding the lodging of this complaint and lastly on 12.05.2022
Date of FIR	2.06.2022
Date of Chargesheet	30.06.2022
Date of Framing of Charges/Plea	24.03.2023
Date of Commencement of Evidence	16.10.2023
Date on which Judgment is reserved	---
Date of Judgment	6.11.2023
Date of the Sentencing Order, if any	---

ACCUSED DETAILS

Rank of the Accused	Name of the 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 of

							CrPC
(1)	Dipendu Mondal	Surrender-29.06.2022	29.06.2022	498A/406 IPC	Acquitted	---	---

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)
(1)	Lekha Mondal	Informant/Victim/CSW-1

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Serial Number	Exhibit Number	Description
(1)	P-1/PW-1	Signature of the PW-1 mentioned in the written complaint

PROSECUTION'S CASE IN NUTSHELL:

The compendium of the prosecution case is as follows:

Briefly stated, as summed up from the written complaint, submitted by one Lekha Mondal, the prosecution story is that, the defacto complainant got married with accused Dipendu Mondal on 30.12.2014 according to Hindu Rites and Customs. At the time of marriage, her father gave stri dhan articles as demanded by the accused person. After marriage, the accused person tortured the complainant mentally and physically. Lastly on 12.05.2022 at about 22.00 hrs, she was driven out from her matrimonial house by the accused person.

On the basis of the written complaint which was treated as FIR, the investigation machinery was set into motion, and the Sonarpur PS Case no. 602/2022 dated-2.06.2022 under sections-498A/406 PC was started against the abovenamed accused person and LPSI Nikhi Singh was endorsed with the investigation.

INVESTIGATION:

Thereafter, investigation commenced which culminated into submission of chargesheet against the accused person under sections-498A/406 IPC.

COGNIZANCE OF OFFENCE, APPEARANCE OF THE ACCUSED PERSONS AND OFFENCE EXPLANATION:

Cognizance was taken by the Learned Court of ACJM, Baruipur vide order dated-23.08.2022 and this case was transferred to this Court for trial and disposal and the same was received by this Court on 14.02.2023. Charge under Section 498A/406 of I.P.C was framed against the accused person and the substance of accusation was read over to the accused person on 24.03.2023 and for which he pleaded not guilty and claimed to be tried.

TRIAL:

In order to drive home the charges, prosecution produces one witness in support of it's case.

PW-1: Lekha Mondal(the defacto complainant as well as CSW-1) The signature of the witness in the written complaint has been marked as Exhibit-P-1/PW-1.

The accused person has been examined under section 313 of Cr.P.C and he did not adduce any defence witness.

Defence contention was in short, a bare denial of the prosecution case in limini, that he was innocent and had no complicity with the crime and were falsely implicated.

Heard Arguments.

POINTS FOR DETERMINATION:

1. Whether prosecution has been able to prove the case beyond reasonable doubt by producing cogent evidence?
2. Whether the accused person is liable to be convicted or not?

DETERMINATION WITH REASONS:

Both the points of determination are taken up for brevity of discussion.

Now, entering into the evidence on record from which it appears that at the very outset, Lekha Mondal, i.e. the defacto complainant as well as CSW-1 in the instant case was examined as PW-1 and she identified the accused person standing on dock. She also identified the written complaint along with her signature on it. It further surfaced from the evidence of PW-1 that she lodged this case against the accused person out of some misunderstanding. It further reveals that she has been residing at her parental house for last two years. At present, she does not have any allegations against the accused person nor she has anything to say about the said complaint. Upon cross examination, she stated that she deposed voluntarily before this Court and that she had also filed another case.

After scrutinizing the material on record, it appear to this Court that prosecution has failed to prove the accusations against the accused person. Prosecution has examined one witness. After perusal of the deposition of PW-1, it appears to this Court that there is no sufficient ground to prove the allegation against the accused person. There is no material of incriminating nature on record to ascertain the guilt of the accused person beyond reasonable doubt.

Moreover, in order to apply the provision of section 498A , it is necessary that the alleged torture upon the victim must be in the pretext of demanding dowry. In the instant case, not a single straw of factum of alleged cruelty and torture by the accused person upon

the PW-1, for demand of dowry, has been explicated by her at the time of oral evidence.

Considering all the aspects and after appreciation of all the materials produced before this Court in the form of oral as well as documentary evidence, this Court has no other alternative but to hold that the evidence of the prosecution suffers from material lacunae insofar as against the accused person. Under such circumstances, the benefit arising out of that lack of evidence should go in favour of the accused person. This Court has no alternative but to hold that there is no iota of ingredients to constitute the offences under section- 498A/406 IPC.

Thus, the abovementioned points under determination are therefore answered in the negative.

In view of the aforementioned discussions, this Court has no alternative but to hold that the prosecution has miserably failed to prove their case beyond reasonable doubt and as such the accused person deserves to be acquitted from this case.

Hence, it is,

ORDERED

that **the accused person namely Dipendu Mondal is found not guilty** of the offences punishable under section- 498A/406 of the Indian Penal Code and **he is hereby acquitted from the instant case under section- 248(1) of Cr. P.C.**

The accused person is discharged from his bail bond and set at liberty forthwith.

The judgment is pronounced in the open Court in presence of the accused persons and then under my hand and seal of the Court today.

The victim Lekha Mondal be informed about her right to prefer an appeal under proviso to section-372 of CrPC and if necessary to avail free legal assistance through the SDLSC, Baruiapur to prefer and prosecute such appeal.

Let a copy of this order be forwarded to SDLSA, Baruiapur for information.

BC-1 to update the Court diary and cause list and CIS.

Stenographer to upload the judgment and order in the CIS.

BC-II to update the concerned register.

Typed by me,

Judicial Magistrate, Baruiapur

Judicial Magistrate, Baruiapur

Case no:- G.R. Case No.3643 of 2022
CIS No.:-3643 of 2022
CNR NO.:-WBSP0F0020572022
T.R.No.:-138/23
(Present-Ms. Ishita Acharya, J.O.Code- WB01401)

Order dated 6.11.2023

Today is fixed for 313, argument and Judgment.

The accused person namely, Dipendu Mondal is present by filling hazira.

Ld. APP is also present.

Now the record is taken up for examination of accused person under section 313 Cr.P.C. On perusal of the evidence on record, on the basis of evidence of prosecution, the accused person is examined u/s 313 Cr.P.C. and kept with case record.

Ld. Advocate for the accused person and accused person submitted for not adducing the defence witnesses, accordingly the DW is closed.

Now the record is taken up for hearing argument. Heard the Argument. Considered.

Fix after recess for judgment.

D/C by me,

Judicial Magistrate, Baruipur

Judicial Magistrate, Baruipur

Later,

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Typed and corrected by me :

Judicial Magistrate, Baruipur

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