

FORM-A

IN THE COURT OF THE JUDL. MAGISTRATE FIRST CLASS, DASPALLA J.O.Code: OD-0706 Present: Soumya Ranjan Prusty, LL.M., J.M.F.C, DASPALLA Date of Judgment :- 25.08.2022 <u>G.R. 14 of 2022</u> T.R. No.171 of 2022 (Arising out of Gania PS Case No.4/dt.12.01.2022)	
COMPLAINANT	STATE OF ODISHA
REPRESENTED BY	Ld. APP, Daspalla
ACCUSED PERSONS	1) Prahallad Jani, aged about 67 years, S/o- Late Debaswara Jani 2) Srimati Sumati Jani, aged about 50 years, W/o- Prahallad Jani 3) Nirmal Jani, aged about 30 years, S/o- Prahallad Jani 4) Sharmila Jani @ Mallik, aged about 23 years, W/o- Nirmala Jani of village- Damaghati, Gania, PS-Gania, District: Nayagarh. Accused persons
REPRESENTED BY	Advocate Sri C.R. Mohapatra & Associates.

FORM-B

Date of Offence	12.07.2020 to 12.01.2022
Date of F.I.R.	12.01.2022
Date of Charge Sheet	21.06.2022
Date of Framing of Charge	27.06.2022

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2

Date of commencement of evidence			04.08.2022				
Date of which judgment is reserved			25.08.2022				
Date of Judgment			25.08.2022				
Date of the Sentencing Order, if any			NA				
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 Detention undergone during Trial for purpose of section 428 Cr.P.C.
01	Prahalla d Jani	U/s.41A served	27.06.2022	U/s.498A /294/323/ 506/494/ 406/34 of I.P.C/4 D.P. Act	Acquitted	N.A.	N.A.
02	Srimati Sumati Jani	U/s.41A served	27.06.2022	U/s.498A /294/323/ 506/494/ 406/34 of I.P.C/4 D.P. Act	Acquitted	N.A.	N.A.
03	Nirmal Jani	13.01.2022	21.01.2022	U/s.498A /294/323/ 506/494/ 406/34 of I.P.C/4 D.P. Act	Acquitted	N.A.	N.A.
04	Sharmil a Jani @ Mallick	U/s.41A served	27.06.2022	U/s.498A /294/323/ 506/494/ 406/34 of I.P.C/4 D.P. Act	Acquitted	N.A.	N.A.

J U D G M E N T :

The above named accused persons stand charged for the offences punishable U/s.498A/294/323/506/494/406/34 of the Indian Penal Code/4 D.P. Act.

2. The prosecution's case in a nutshell is as follows :-

The informant reported that the accused had love affairs with the informant Kalyani Patri and he kept her as his wife at Nayagarh for 3 to 4 months. After that the accused Nirmala left the informant in her paternal house at Sankarada. Informant stayed there for 8 to 10 days. Then the accused Nirmala along with his friend went to Sankarada and brought her with him. The informant had brought Rs.20,000/- and one gold necklace with her when she came with her husband from her paternal house. After that the accused married the informant in Narayani Temple at Nayagarh. After some days of staying there, her husband again sent her to her paternal house and asked her to bring more cash of Rs.40,000/-. When the informant could not arrange the said money and expressed her inability to pay it due to poverty of her family, her husband along with his parents abused her, tortured her physically and mentally and drove her out from their house. Nayagarh Police kept her in Old age home to live there. The informant came to know that the accused Nirmala had also married another lady

namely Sarmila Jani. All the accused persons threatened to kill the informant if she would go to their house.

Basing upon the written report of the informant, IIC Gania PS registered PS case No.4/2022 U/s.498A/294/323/506/494/34 of the Indian Penal Code /4 D.P. Act and he himself took up investigation. After investigation, C.S. was submitted U/s.498A/294/323/506/494/406/34 of the Indian Penal Code /4 D.P. Act against the accused persons. The charge was framed under the said sections and the accused persons faced their trial accordingly. Hence, this case.

3. The plea of defence is of complete denial and false implication.

4. Following points are to be determined in this case:-

Whether the accused persons, in furtherance of their common intention:

i) being the husband or relatives of the husband of informant subjected the informant to cruelty; and thereby committed an offence punishable U/s.498A/34 of IPC ?

ii) abused the informant in obscene languages in or near a public place causing annoyance to others, and thus committed an offence punishable U/s.294/34 of IPC ?

iii) One or more of the accused persons, voluntarily caused hurt to the informant and thereby committed an offence punishable U/s.323/34 of IPC ?

iv) One or more of the accused persons, criminally intimidated the informant by threatening her with intent to cause alarm to her, or to cause her to bring rupees forty thousand from her father, as the means of avoiding the execution of such threat; and thereby committed an offence punishable u/s.506/34 of IPC?

v) The accused Nirmala, having his wife i.e. informant Kalyani Patri living, married accused Sharmila Jani, such marriage being void by reason of its taking place during the life of his wife Kalyani Patri; and thereby committed an offence punishable U/s.494 of IPC?

vi) One or more of the accused persons, being entrusted with certain property or dominion over property, to wit dowry articles of the informant, dishonestly misappropriated or converted the same to their own use; and thereby committed an offence punishable U/s.406/34 of IPC?

vii) Demanded dowry, directly or indirectly, from the parents or other relatives or guardian of the informant; and thereby committed an offence punishable U/s.4 of Dowry Prohibition Act?

5. In order to prove its case the prosecution has examined five charge-sheeted witnesses including the informant as P.W.1. The rest CS witnesses are declined by the prosecution. The prosecution has exhibited one document. On the other hand, the defence has neither examined any witness nor exhibited any document from its side.

6. On analysis of the evidence adduced, it is found that in this case P.W.1 the informant-cum-victim deposed to the effect that she cannot remember the incident. PW.1 has admitted that she lodged the FIR marked as Exhibit.P-1 and her signature thereon marked as Exhibit P-1¹. During her cross-examination she deposed that the matter has been settled among them and now she has good relationship with the accused persons for which she does not want to proceed with this case. P.W.2 has only deposed that the incident took place last year in rainy season. During his cross-examination he deposed that the matter has the matter has been settled among them and now they have good relationship with the accused persons for which they do not want to proceed with this case. P.W.3, P.W.4 & P.W.5 have expressed their complete ignorance about the case and not supported the case of prosecution.

It is well settled that FIR is not considered a substantive piece of evidence, it can only be used to

corroborate or contradict the informant's evidence in Court (vide *Apren Joseph @ Current Kunjukunu & Ors. vs. The State of Kerala*, AIR 1973 SC 1). But in this instant case, as the informant examined on oath has not deposed anything in Court with respect to occurrence or prosecution's story, mere FIR stands of no help to prosecution's case. The rest witnesses (PW3, PW4 & P.W.5) have deposed complete ignorance about this case and have merely stated that there was some dispute between the accused persons and the informant, but they have settled the matter and now both the parties are living amicably.

7. In view of the evidence adduced it is noted that there is no evidence brought on record either by the informant or by any other witness to substantiate the offences against the accused persons. There being no testimony on oath supporting prosecution's story, the accused persons cannot be fastened with any liability in any manner whatsoever. Merely lodging of FIR due to dispute does not remotely prove or even suggest any ingredient of the alleged offences. That apart, as the witnesses have deposed that the matter has been amicably settled and that the informant and the accused persons are living amicably, there seems no need to delve into the matter any further.

8. In conclusion, I am bound to arrive at a conclusion that there is complete dearth of evidence to bring home the charges leveled against the accused persons and as such, the prosecution has utterly failed to prove its case against the accused persons. In the result, the accused persons are found not guilty of the offences punishable U/s.498A/294/323/506/494/406/34 of the Indian Penal Code/4 D.P. Act and they are acquitted therefrom U/s.248(1) of Cr.PC. The accused persons be set at liberty forthwith and be discharged from their bail bonds.

There is no order regarding seized articles as there is no seizure reported in this case.

Enter the case as mistake of fact.

J.M.F.C., Daspalla

Typed to my dictation and corrected by me, pronounced & delivered in the open Court on this the 25th day of August, 2022.

J.M.F.C., Daspalla

FORM-C

LIST OF PROSECUTIONS / DEFENCE / COURT WITNESSES		
A. Prosecution Witness		
Rank	Name	Nature of Evidence
P.W.1	Kalyani Patri	Informant

P.W.2	Purnadhara Patri	Corroborative witness
P.W.3	Sulochana Patri	Corroborative witness
P.W.4	Biren Navak	Corroborative witness
P.W.5	Sridhara Jani	Corroborative witness
B. Defence Witnesses, if any:		
Rank	Name	Nature of Evidence
	None	
C. Court Witnesses, if any:		
Rank	Name	Nature of Evidence
	None	
LIST OF PROSECUTIONS / DEFENCE / COURT EXHIBIT		
A. Prosecution Exhibits		
Sl. No	Exhibit Number	Description
01	Exhibit.P-1	F.I.R.
02	Exhibit.P-1 ¹	Signature of P.W.1 on Ext.1
B. Defence Exhibits, if any:		
Sl. No	Exhibit Number	Description
	Nil	
C. Court Exhibits, if any:		
Sl. No	Exhibit Number	Description
	Nil	
D. Material Objects:		
Sl. No	Material Object Number	Description
	Nil	

J.M.F.C., Daspalla