

**IN THE COURT OF THE Ld. JUDICIAL MAGISTRATE
1st CLASS, DANTAN, DIST. PASCHIM MEDINIPUR**

PRESENT:

MR. MIFTAHUL ISRAR

JUDICIAL MAGISTRATE, 1ST CLASS

DANTAN, DIST. PASCHIM MEDINIPUR

G.R. No. 1070 of 2021

T.R. NO. 194 of 2022

CIS Filling No. 832 of 2022

CIS Registration No. 523 of 2022

CNR No. WBWM0G-000833-2022

State of West Bengal

-VS-

(1) Alimuddin Sha & (2) Rajeda Bibi

..... ACCUSED PERSONS

CHARGE UNDER SECTIONS 341/323/354/506/34 OF THE INDIAN PENAL
CODE, 1860

JUDGMENT DELIVERED ON THIS 13th DAY OF JUNE, 2023

J U D G M E N T

The wheels of criminal law was set into motion that one Rubeda Bibi [in short the defacto complainant] lodged a written complaint against (1) Alimuddin Sha & (2) Rajeda Bibi [in short the accused] with the Belda Police Station.

The crux of the allegation is that on 19.11.2021 at about 12.00 – 12.30 pm, the accused persons used filthy languages to to the defacto complainant. The accused persons assaulted the defacto complainant with broom, shoe and iron rod and also threatened to kill her and tore her wearing apparels. Hence this is the complaint. Hence this is the complaint.

On receipt of such compliant, the Belda Police Station started Belda Police Station case Number 401/2021 dated 19.11.2021 under section 341/323/325/354/506/34 of Indian Penal Code (in short IPC).

After completion of investigation, the authority of Belda Police Station submitted Charges Sheet against the accused persons under section 341/323/354/506/34 of the Indian Penal Code.

Let, it remain mentioned that the accused persons were enlarged on bail in the meantime and as such they remained on court bail till the end. Post service of copy the record was transferred to this Court for trial and disposal.

At the initial stage, the charge was framed against the accused persons under Section 341/323/354/506/34 of the India Penal Code, 1860, (in short the IPC) to which they pleaded innocence and for which trial of the case commenced. That burdened the prosecution to prove the case.

During the course of trial of this case, the prosecution adduced following witnesses:

- | | | |
|---------------------------------------|---|----------|
| 1. Rubeda Bibi (defacto complainant) | : | P.W. - 1 |
| 2. Samina Khatun @ Samita | : | P.W. - 2 |
| 3. Maleka Bibi | : | P.W. - 3 |
| 4. Habib Sha | : | P.W. - 4 |

During the prosecution evidence following document was marked as Exhibits on behalf of the prosecution :

- | | | |
|---|---|-------------|
| 1. The signature of the defacto complainant | : | Exhibit - 1 |
| appears on the Written complaint | | |

During the examination of chief and cross examination of prosecution witnesses valuable and relevant evidences does not come out to to establish the prosecution case. There is a shadow of reasonable doubt whether the accused persons have committed the offences alleged against them or not. The evidence was closed as per prayer of the Ld. A.P.P. The defense did not adduce any evidence. Their case, as it appears from the trend of argument and cross examination as well as examination the accused persons under section 313 Cr.P.C. is that of denial of prosecution case.

With such materials in hand this Court intends to address the present case by disposing the following points for determinations:

POINTS FOR DETERMINATION

- Whether the accused persons did the overt acts as alleged?
- Whether the prosecution has been able to prove its case?

DECISION WITH REASONS

POINT NOS. 1 AND 2:: These two points are clubbed together in order to avoid unnecessary parade of words. During the evidence of the prosecution witnesses considerable & materials evidence have not come out to stand the prosecution case. The defacto complainant P.W. 1 stated in the examination in chief that “ I have filed this case against the accused persons out of misunderstanding & I have no allegation against the accused persons”. Other prosecution witness did not corroborate the prosecution case. There is no corroborative evidence supporting the prosecution case. The written complaint has not been marked as Exhibit on behalf of the prosecution. There is no corroborative evidence supporting the prosecution case. There is a shadow of reasonable doubt and suspicious whether the accused persons have done over acts on the issue. The advantage of benefit of doubt shall get accused persons. They practically leave the record without any incriminating evidences against the accused.

The FIR (written complaint) is not marked as Exhibit. This Court thinks that FIR in itself is no substantive piece of evidence but it is to be used as corroboration or contradicting by the witnesses. What is in the FIR has to be testified on witness box by the witnesses of prosecution.

Otherwise, that in itself is practically an impotent document to drive home the charges against the accused by own force.

But when there is no workable witness in hand, the Court is of the opinion that the same is of no use.

In the result, the Court could not convince itself that the prosecution has been able to prove its point, needless to say beyond any shadows of reasonable doubt.

In short, the Court finds several failure of the prosecution to make the case stand at its own strength, leaving enough room of doubt for the Court to hold that the accused persons are not guilty of the offense charged against them.

Accordingly it is :

ORDERED

That the accused persons (1) Alimuddin Sha & (2) Rajeda Bibi are found not guilty of the charges under sections 341/323/354/506/34 of the IPC as were leveled against them.

They are hereby acquitted from said charges under Section 248(1) of the Code of Criminal Procedure, 1973.

They be set at liberty forthwith.

Sureties be released from bonds.

No alamot.

Note in the T.R.

Sd/- Miftahul Israr

Judicial Magistrate, 1st Class,

Dantan, Paschim Medinipur

J.O. Code WB01295

Typed, corrected and

printed by me:

Sd/- Miftahul Israr

Judicial Magistrate, 1st Class

Dantan, Paschim Medinipur

J.O. Code WB01295