

**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. 831 of 2021

CIS Filing No. 836 of 2022

CIS Registration No. 527 of 2022

CNR No. WBWM0G-000837-2022

State of West Bengal

-VS-

(1) Paramananda Giri, (2) Laxmi Giri & (3) Khokan Sing @
Khakan Singha @ Dulal Singha

..... ACCUSED PERSONS

CHARGE UNDER SECTIONS 498A/323/406/ 34 OF THE INDIAN PENAL
CODE,1860

JUDGMENT DELIVERED ON THIS 17th DAY OF DECEMBER, 2022

J U D G M E N T

The wheels of criminal law was set into motion that one Smt. Nilima Giri [in short the defacto complainant] lodged a written complaint against (1) Paramananda Giri, (2) Laxmi Giri & (3) Khokan Sing @ Khakan Singha @ Dulal Singha [in short the accused] with Belda Police Station.

The crux of the allegation is that the defacto complainant namely Smt. Nilima Giri got marriage with Paramananda Giri as per Hindu religious and customs. At the time of marriage, the father of the petitioner had given cash, gold ornaments and other valuable articles as per demand of the accused persons. After getting marriage shed used to live in her matrimonial home. All the accused persons tortured her and assaulted her on various pretext. She gave birth a male child. The accused persons asked her to bring Rs.2,00,000/- from her father. Her father was unable to meet such demand. As a result, on 05.09.2021, all accused persons tortured her again and again and tried to commit murder by holding throat. On hearing hue and cry, local people came and save her and shifted her to Belda Hospital. Her father got information about the incident and took her from Belda Hospital. Hence this is the complaint.

On receipt of such compliant, the Belda Police Station started Belda Police Station case Number 308/2021 dated 08.09.2021 under section 498A/323/307/506/34 of Indian Penal Code (in short IPC) read with section 3/4 D.P. Act.

After completion of investigation, the authority of Belda Police Station submitted Charges Sheet against the accused persons under section 498A/323/406/34 of the Indian Penal Code read with section 3/4 D.P. Act.

Let, it remain mentioned that accused 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 498A/323/406/34 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 brings following witness:

- | | | |
|--------------------------------------|---|----------|
| 1. Nilima Giri (defacto complainant) | : | P.W. - 1 |
| 2. Mantu Hati | : | P.W. - 2 |
| 3. Umesh Jana | : | P.W. - 3 |
| 4. Suchitra Jana | : | P.W. - 4 |

During the prosecution evidence following documents were marked as Exhibit on behalf of the prosecution :

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

During the evidence of the prosecution witnesses valuable and relevant evidences does not come out to incriminate the accused persons. The evidence is closed as per prayer of Ld. A.P.P. There is a shadow of reasonable doubt whether the accused persons have committed the offenses alleged against them or not. 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 witnesses 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) Paramananda Giri, (2) Laxmi Giri & (3) Khokan Sing @ Khakan Singha @ Dulal Singha are found not guilty of the charges under sections 498A/323/34 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.

Seized alamot be returned to it's owner after proper verification and identification, if not returned earlier.

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