

IN THE COURT OF JUDICIAL MAGISTRATE, Kakdwip,
South 24 Parganas

Present: Smt. RICHA GUPTA, J.M Kakdwip
Delivery of Judgment : 30.10.2024

GR Case No. 1068 of 2022
Reg No. 86 of 2022
J.O Code – WB01372

Ref : Dholahat, P.S Case No. 224 of 2022 dated 18.05.2022

Complainant Represented by	State Ld. A.P.P. Md Selim Ali Sanfui
Accused	Manas Sardar (A-1)
	Megnad Sardar (A-2)
	Dinesh Sardar (A-3)
	Tapas Sardar (A-4)
	Bithika Sardar (A-5)

Represented by **Ld. Advocate Jagal Mohan Mal.**

Date of offence	16.05.2022
Date of FIR	18.05.2022
Date of Charge-sheet	31.05.2022
Date of Framing of Charges	15.12.2022
Date of commencement of Evidence	04.03.2023
Date on which Judgment is reserved	
Date of the Judgment	30.10.2024
Date of the sentencing order, if any	

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

					ed		Trial for purpose of section 428 Cr.P.C.
1.	Manas Sardar (A-1) and four others.		31.05.2022	498A/34 I.P.C.	Acquitted		

Charges u/s 498A/325/34 of I.P.C
JUDGMENT

Prosecution Case

The case of the prosecution in brief is that on 18.05.2022 at about 14:25 hours a written complaint was received from Rupa Sardar (de-facto complainant) of Vill + P.O. Kautala P.S. Dholahat, District - South 24 Parganas, who has filed a case against **Manas Sardar (A-1) and four others** (accused person) to the effect that de facto complainant was married to **Manas Sardar** on 2018 as per Hindu customary rites with sufficient dowry. After her marriage she was tortured by the accused person over the demand of more dowry. Since 6-7 months of the marriage, the accused persons assaulted the de facto complainant and drove her out of her matrimonial house. Over this issue, a case was registered being no. **Dholahat, P.S Case No. 224 of 2022 dated 18.05.2022 u/s 498A/325/34 IPC 3 and 4 D.P. Act.** have been registered and accordingly charge was framed u/s **498A/325/34 of I.P.C.**

The cognizance was taken by the Ld. ACJM, Kakdwip and the same was transferred to this Court for disposal.

Date was fixed for appearance. Charges were framed accordingly and were read over and explained to the accused to which they pleaded not guilty and claimed to be tried. On completion of evidence for prosecution, the accused persons have been examined under Sec 313 of Cr.P.C. In defence, they denied the case of the prosecution stating themselves as innocent. The accused person was then asked to enter upon their defence and to produce their evidence. They however, did not adduce any evidence on their part. From the trend of cross

examination of the witnesses, it appears that the case of the accused persons is of mere denial.

POINT FOR DETERMINATION

The points for determination in the instant case are as follows:

1. Whether the Prosecution has been able to establish the case against the accused persons beyond any reasonable doubt?
2. Whether the accused persons are guilty of the offences u/s **498A/325/34 of I.P.C** for which they has been charged?

LIST OF PROSECUTION/ DEFENCE/COURT WITNESS

To prove the prosecution case, the prosecution side examined few witnesses:

- PW1 – Rupa Sardar (de facto complainant)
- PW2- Sanjit Sardar (father de facto complainant)
- PW3- Renuka Sardar (mother de facto complainant)
- No defence witness were examined.

LIST OF PROSECUTION/ DEFENCE/COURT EXHIBITS

The following documents were marked as exhibit in this case during trial by the side of Prosecution:

- Exbt-1 - Written complaint.
- Exbt-1/1 - Signature of P.W 1 on written complaint

No documents were exhibited on behalf of Defence.

DECISION WITH REASONS

It is the cardinal principle of the criminal jurisprudence that to secure conviction of the accused person the prosecution has to prove its case beyond all shadow of reasonable doubt. It is one of the fundamental tenets of criminal jurisprudence that the burden of proving the prosecution case squarely lies on the prosecution. The general burden never shifts. Defence is not bound to open its mouth so long as prosecution does not discharge its general burden of proving its case beyond reasonable doubt. Defence version may even be false, because a falsely instituted prosecution may compel the accused to adopt a false defence. So, prosecution does not derive any advantage from the falsity or infirmity of the defence version, so long as it does

not discharge its initial burden of proving its case beyond all reasonable doubt. **1992 Cr.LJ 3287(Gau).**

On hearing the submission of both sides and upon perusal of the Case Record, I find that P.W. 1 stated that she was married to Manas Sardar in the year 2018 per Hindu customary right. However, matrimonial dispute arose between her and her husband. About 6-7 months, of the marriage she started residing at her paternal house. P.W. 2 and P.W. 3 narrates the same version. They are the parents of the de facto complainant. However, during the cross-examination, P.W. 1 admitted that she is residing peacefully at her matrimonial house along with her husband and has no allegation against the accused persons. No other witness was deposed on behalf of the prosecution. Allegation in complaint are those of torture on the de facto complainant but there is no evidence to substantiate the charge of torture and infliction of assault on the de facto complainant.

Though serious allegation has been brought by the de facto complainant at the time of oral deposition de facto complainant of this case, backtracked from the contents as mentioned in the written complaint which in turn weakened the case of the Prosecution.

So, it follows that the Prosecution has failed to prove the guilt of the accused person beyond all shadow of reasonable doubt and consequently the accused persons are entitled to get an order of acquittal.

Hence, it is,

ORDERED

that the accused persons, namely, **Manas Sardar, Megnad Sardar, Dinesh Sardar, Tapas Sardar and Bithika Sardar** are found **not guilty** of the offence **498A/325/34 of I.P.C.** are acquitted thereof in view of section **248 (1)** of the Criminal Procedure Code. The accused persons are freed from their respective bail bonds and set at liberty at once. The surety is also discharged from his surety ship.

Informed all concerned.

Note in the Register.

Typed by me.

(SMT RICHA GUPTA)
Judicial Magistrate.
Kakdwip

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Judicial Magistrate
Kakdwip