

WBSP170009332022



JO CODE No. WB00823

CNR NO. WBSP17-001267-2022

In Court of Additional Chief Judicial Magistrate -cum- Civil Judge ,(Senior Division), Kakdwip, South 24 Parganas.

Present:- Smt. Sushmita Gayen,
Additional Chief Judicial Magistrate,
Kakdwip, South 24 Parganas

Date of Judgment : 10.08.2023

G R Case No. 1243 of 2022
Trial No. 673/2022
CIS No. 70 of 2022

Details of FIR/ Crime and Police station

Complainant	State of West Bengal
Represented by	Ld. A.P.P.
Accused	1. Behula Das 2. Kalidasi Das 3. Gobinda Das 4. Sachirani Ruidas 5. Rabin Ruidas
Represented by	Sk Tajuddin
Date of offence	04.06.2022
Date of FIR	04.06.2022
Date of Charge sheet	18.07.2022
Date of commencement of Evidence	10.08.2023
Date on which judgment is reserved	NIL
Date of judgment	10.08.2023
Date of sentencing order, if any	N.A.

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 CrPC
1.	Behula Das		16.06.22	498A IPC & read with section 3 & 4 D.P.Act	Acquitted	N.A.	N.A.
2.	Kalidasi Das		10.06.22	498A IPC & read with section 3 & 4 D.P.Act	Acquitted	N.A.	N.A.
3.	Gobinda Das		16.06.22	498A IPC & read with section 3 & 4 D.P.Act	Acquitted	N.A.	N.A.
4.	Sachirani Ruidas		16.06.22	498A IPC & read with section 3 & 4 D.P.Act	Acquitted	N.A.	N.A.
5.	Rabin Ruidas		16.06.22	498A IPC & read with section 3 & 4 D.P.Act	Acquitted	N.A.	N.A.

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :

Rank	Name	Nature of evidence Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witnesses
1.	Tapasi Das	De facto complainant
2.	Brihaspati Das	Other witness

B. Defnece witnesses, if any : NIL

Rank	Name	Nature of evidence Eye Witness, Police Witness, Expert Witness,
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		Medical Witness, Panch Witness, Other Witnesses

C. Court witnesses, if any : NIL

Rank	Name	Nature of evidence Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witnesses

List of prosecution/defence/court exhibits : NIL

A. Prosecution

Sr. No.	Exhibit No.	Description
1.	P-1	Written complaint

B. Defence

Sr. No.	Exhibit No.	Description

C. Court exhibits : NIL

Sr. No.	Exhibit No.	Description

D. Materials objects : NIL

Sr. No.	Exhibit No.	Description

J U D G M E N T

FACTS OF THE CASE

1. This instant case was instituted by one Tapasi Das, inter alia alleging that she was subjected to physical and mental torture at her matrimonial home.
2. On the basis of the said complaint Dholahat PS Case no. 267 of 2022 dated 04.06.2022 u/s. 498A of the IPC read with section 3 & 4 of D.P.Act was initiated. Investigation followed and after completion of investigation charge sheet being no. 316 of 2022 dated 18.07.2022 u/s. 498A of the IPC read with section 3 & 4 of D.P.Act was submitted.
3. Charge was framed u/s. 498A of the IPC read with section 3 & 4 of D.P.Act on 23.03.2023 and the charge so framed was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried and hence, this trial.

POINTS FOR DETERMINATION

- i. Did the accused person being the husband and relatives of husband of the victim subject the victim to physical and mental torture at her matrimonial home ?
- ii. Are the accused persons guilty of the charge labeled against them ?

DECISION WITH REASONS

Points No. 1 and 2:

- I. Both these points being interrelated are taken up together for discussion for the sake of brevity of discussion and to avoid unnecessary repetition.
- II. From the evidence garnered on record it appears that because of some dispute between the complainant and her husband the complainant had filed this case but section 498A of the IPC runs as follows : *Whoever, being the husband or relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

Explanation : For the purpose of this section, 'cruelty' means -

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or

physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet demand.

III. So, in the instant case there is no such willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or damage to the life, limb or health of the woman and there is no allegation of unlawful demand, hence, this case do not come within the purview of Sec. 498A IPC.

IV. Thus there is no iota of evidence which can bring the case within the purview of section 498A of the IPC.

V. In the given premises, I am compelled to hold that the prosecution has miserably failed to bring home the charge labeled against the accused persons and as such, the accused persons merit acquittal.

Hence, it is

ORDERED

that accused persons A1, A2, A3, A4 and A5 namely, Behula Das, Kalidasi Das, Gobinda Das, Sachirani Ruidas and Rabin Ruidas respectively are found not guilty of the charge labeled against them and they are acquitted as per the provision section sections 248(1) of the Code of Criminal Procedure.

The accused persons be discharged from their respective bail bonds, if any; and be set at liberty forthwith.

The seized alat, if any, be destroyed after the period of appeal.

Let a pdf copy of this judgment be sent to the Chairperson, SDLSA, Kakdwip through official mail with a request to inform the victim of her right to prefer an appeal availing legal aid.

Dictd. & Cortd. by me :

Sd/-Sushmita Gayen
Additional Chief Judicial Magistrate -
cum- Civil Judge, (Senior Division),
Kakdwip, South 24 Parganas.

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Additional Chief Judicial Magistrate -
cum-Civil Judge, (Senior Division)
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