

Form A

<u>In the Court of Ld. Additional District & Sessions Judge, F.T. 2nd Court, Jangipur, Murshidabad.</u> <u>Present: Surajit Seal, W.B.J.S</u> <u>(JO Code- WB00734)</u> Date of the Judgment: 21st Day of May, 2025 <u>Sessions Serial Case No. – 160 of 2022</u> <u>S.T. No. 1 (April) of 2024</u> <u>CNR No. - WBMD0E-001815-2022</u> <u>J.O. Code WB00734</u> Samsherganj P.S. General Dairy Reference No. 118/2022 dated 09.04.2022; FIR No. 118/2022 dated 09.04.2022 U/S 498A/307 of I.P.C	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	LD. Public Prosecutor, Ismat Pasa
ACCUSED	Biswajit Haldar and Durga Haldar both of village Dhusaripara Colony, PS Samsherganj, Dist. Murshidabad.
REPRESENTED BY	Mr. Sanjoy Mondal

FORM B

Date of offence	08.04.2022
Date of FIR	09.04.2022
Date of Charge Sheet	17.04.2022
Date of Framing of Charges	09.04.2024
Date of commencement of Evidence	11.06.2024
Date on which Judgment reserved	NIL
Date of Judgment	21.05.2025
Date of the Sentencing Order if any	NIL

Accused Details

R	Ranked of 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 Cr.P.C
	01	Biswajit Haldar	Arrested on 10.04.2022	16.04.2022	U/S 498A/307/34 of I.P.C.	Acquitted	NIL	06 days
	02	Durga Haldar	Surrendered on 20.04.2022	20.04.2022	U/S 498A/307/34 of I.P.C.	Acquitted	NIL	NIL

Form- C

LIST OF PROSECUTION/ DEFENCE /COURT WITNESS

A. Prosecution:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, CHANCE WITNESS, OTHER WITNESS)
PW 1	Namita Halder	De-facto complainant
PW 2	Samir Halder	Brother of the de-facto complainant
PW 3	Tanup Halder	Father of the de-facto complainant
PW 4	Mala Halder	Mother of the de-facto complainant
PW 5	Laxmi Biswas	Aunt of the de-facto complainant
PW 6	Partha Halder	Uncle of the de-facto complainant
PW 7	SI Sukomal Mallick	IO of this case

B. Defence witness, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, CHANCE WITNESS, OTHER WITNESS)
DW1	NIL	NIL
DW2	NIL	NIL

C. Court Witness, if any :

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, CHANCE WITNESS, OTHER WITNESS)
CW 1	NIL	NIL
CW 2	NIL	NIL

LIST OF PROSECUTION /DEFENCE/COURT EXHIBITS• **Prosecution :**

Sr. No	Exhibit Number	Description
01	Exhibit-1	Written complaint
02	Exhibit-1/1	Endorsement of PW-7 on the written complaint
03	Exhibit-2	FIR
04	Exhibit-3	Rough sketch map with index
05	Exhibit-4	Colour photograph with two invitation cards

• **Defence :**

Sr. No	Exhibit Number	Description
01	Exhibit D-1/DW 1	NIL
02	Exhibit D-2/DW 2	NIL

• **Court Exhibits:**

Sr. No	Exhibit Number	Description
01	Exhibit C-1/CW 1	NIL
02	Exhibit C-2/CW 2	NIL

• **Material Exhibits:**

Sr. No	Exhibit Number	Description
01	Mat Exhibit – MO-I	NIL
02	Mat Exhibit – MO-II	NIL

JUDGEMENT

1) The case of the Prosecution, in brief, is that the de-facto complainant has lodged a written complaint with Samsherganj P. S. on 09.04.2022 alleging offence punishable u/sec. 498A/307 of IPC against the above-named accused persons.

2) The allegation of the de-facto complainant is that the de-facto complainant Namita Halder filed a written complaint on allegation that she was married with accused Biswajit Halder on 10.07.2018 according to Hindu Rites and Customs. After her marriage, she went to her matrimonial house and started to live there as husband and wife. After one year of her marriage, she gave birth of a daughter namely Ishita Halder. Since then they started to torture her. They also tried to administer poison to kill her. She could not bear the torture and became ill. Lastly on 08.04.2022 the accused persons tortured her with an intention to kill her. She came back to her father's house. Hence, she lodged this complaint.

3) On receipt of the complaint, police started Samsheganj P.S. Case No. 118 of 2022 dated 09.04.2022 u/Sec. 498A/307 of IPC against the said accused persons.

4) This case was endorsed to S.I. Sukamal Mallick for investigation.

5) During investigation, the IO perused the F.I.R., visited the P.O. prepared rough sketch map along with index of the P.O., examined the available witnesses u/Sec. 161 of Cr. P. C, recorded their statements, seized some documents under seizure list and after completion of his investigation, he submitted the charge-sheet being No. 105 of 2022 dated 17.04.2022 u/Sec. 498A/307 of IPC against the said accused persons.

6) Subsequently, the case was committed by the Ld. A.C.J.M., Jangipur before the Ld. Addl. Sessions Judge, 1st Court, Jangipur, Dist. Murshidabad U/Sec. 209 of Cr. P. C. Ld. Addl. Sessions Judge, 1st Court, Jangipur, has been pleased to transfer the case before this Court for disposal on 02.09.2023.

7) On 09.04.2024, charge under Section 498A/307/34 of I.P.C. was framed against the said accused persons to which they pleaded not guilty and claimed to be tried.

8) **Points for Consideration**

- A. Whether the accused person committed offence for torturing the de-facto complainant and tried to kill her by administering poison ?
- B. Whether the prosecution has been able to prove the case beyond any reasonable doubt for the offence punishable u/Sec. 498A/307/34 of I. P. C. ?

9) **Decision with Reasons**

In order to prove the case the prosecution has examined as many as seven (07) witnesses including the de-facto complainant and other witnesses.

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, CHANCE WITNESS, OTHER WITNESS)
PW 1	Namita Halder	De-facto complainant
PW 2	Samir Halder	Brother of the de-facto complainant
PW 3	Tanup Halder	Father of the de-facto complainant
PW 4	Mala Halder	Mother of the de-facto complainant
PW 5	Laxmi Biswas	Aunt of the de-facto complainant
PW 6	Partha Halder	Uncle of the de-facto complainant
PW 7	SI Sukomal Mallick	IO of this case

10) During evidence, the following documents were marked as exhibits:-

Sr. No	Exhibit Number	Description
01	Exhibit-1	Written complaint
02	Exhibit-1/1	Endorsement of PW-7 on the written complaint
03	Exhibit-2	FIR
04	Exhibit-3	Rough sketch map with index
05	Exhibit-4	Colour photograph with two invitation cards

11) The **de-facto complainant, namely, Namita Halder** was examined as P.W.1 and she has stated that she was married with accused Biswajit Halder on 10.07.2018 according to Hindu Rites and Customs. After her marriage, she went to her matrimonial house and started to live there as husband and wife. From the said wedlock she gave birth to a daughter. The accused persons did not like her female child. They used to torture her. Her husband tortured her in drunken condition. Due to starvation, she became ill. Doctor stated to her that she was suffering from T.B. She came back to her father's house. She was treated there. After six months, her husband took her to his house. After one month, they started to torture again for demanding further dowry. The accused persons threatened to administer poison upon her and to strangle her. She informed her father. Her father and her brother came there. They went to the Panchayat of their village. Panchayat stated to her to reside together. She replied to reside separately with her husband but her husband declined. Thereafter, she came back with her father to her father's house in the month of April, 2022.

12) In her cross-examination, she stated that her husband has three brothers. Two brothers were married. She does not know whether the said brother was living peacefully with his wife. When her husband went to bring him back, she was happy. After discussing with her parents, she went to her matrimonial house on 08.04.2022. Previously also she went away and her husband took him back. While her husband used to go to her house, there were circumstances of happiness.

13) **PW- 2, Samir Halder** has stated that Namita Halder was married with accused Biswajit Halder, in the year 2018 according to Hindu rites and customs. After her marriage, she went to her matrimonial house and started to live there as husband and wife. From the said wedlock she gave birth to a daughter. Now she is living in their house. After giving birth of the said female child, the accused persons started to torture her for demand of further dowry and furniture. They could not give the same. Her sister became ill. As the accused persons did not treat her properly, they took her back to their house. Namita was found to be suffering from T.B. After she cured, the accused

persons took her back to her matrimonial house. Thereafter, they again started to torture upon her. His sister informed them that the accused persons were trying to kill her by administering poison and strangulation. They came to her matrimonial house and took her back to their house.

14) In his cross-examination, he stated that he went to the house of his brother in-law. They used to welcome him when he came to his brother in-law's house. He did not go to the house of his uncle's (pisemosai) house. He did not hear that his parents went to the house of his pisemosai or not.

15) PW-3, Tanup Halder, has stated that his daughter Namita was married with accused Biswajit Halder, in the year 2018 according to Hindu rites and customs. After her marriage, she went to her matrimonial house and started to live there as husband and wife. From the said wedlock she gave birth to a daughter. Now she is living in their house. After giving birth of the said female child, the accused persons started to torture her for giving birth of female child. His daughter became ill. He took her back to their house. Due to the said torture, his daughter was suffering from T.B. After she cured, the accused persons took her back to her matrimonial house. Thereafter, they again started to torture upon her. His daughter informed them that the accused persons were trying to kill her by administering poison and strangulation. He found some marks of torture upon her body. They came to her matrimonial house and took her back to their house.

16) In his cross-examination, he stated that he did not hand over any document to the police that his daughter was suffering from T.B.

17) PW-4, Mala Halder, has stated that her daughter Namita was married with accused Biswajit Halder, in the year 2018 according to Hindu rites and customs. After her marriage, she went to her matrimonial house and started to live there as husband and wife. From the said wedlock she gave birth to a daughter. Now she is living in their house. After one year, the accused persons started to torture her as they could not fulfill their further demand. They agreed to give them those articles but they denied and demanded cash amount. They could not give the same. Her daughter gave birth of a female

child, the accused persons started to torture her for giving birth of female child. They went to her matrimonial house. Her daughter told them that her daughter would like to file a case against the accused persons for the said torture. Her daughter lodged the case on the next date of her return to their house.

18) In her cross-examination, she stated that they took their daughter to the house of her sister in law at Dhuliyān on date the of last occurrence. P.S. Samsherganj is also situated at Dhuliyān. They did not state anything to her sister in-law or her family members. They used to look after her son in-law when he came to their house.

19) PW-5, Laxmi Biswas, has stated that Namita was married with the accused Biswajit Halder in the year 2018 according to Hindu Rites and Customs. After marriage, Namita went to her matrimonial house. There Namita lived as husband and wife and gave birth a daughter. There was some family dispute with her and the accused persons. He do not know the reasons. Namita came to his house and stated that the accused persons tortured her. Now Namita is residing with her father. Due to the said dispute and torture Namita came back there.

20) In her cross-examination, she stated that she could not say the date and time when her niece stated the incident. She had heard the said incident.

21) PW-6, Partha Halder, has stated that his niece Namita was married with the accused Biswajit Halder in the year 2018 according to Hindu Rites and Customs. After marriage, Namita went to her matrimonial house. There Namita lived as husband and wife and gave birth a daughter. There was some family dispute with Namita and the accused persons. He did not know the reasons. Namita came to his house and stated that the accused persons tortured her. Now Namita is residing with her father. Due to the said dispute and torture Namita came back there.

22) In his cross-examination, he stated that he had not seen anything. He could not say the date and time when his niece stated the incident. He had

heard the said incident.

23) PW-7, SI Sukomal Mallick, has stated that on 09.04.2022, he was posted as S.I at Samsherganj PS. On that date, PSI Md. Azmal Akhtar was the duty officer of that PS. Md. Azmal Akhtar received a complaint on that date from Namita Halder. He worked with him and know his hand-writing and signature. On the basis of the said written complaint, he started Samsherganj P.S. Case No. 118 of 2022 dated 09.04.2022. OC Samsherganj PS endorsed him the case for investigation. During investigation, he went to the P.O. and prepared rough sketch-map with index. He recorded the statements of the available witnesses of the locality u/sec. 161 Cr. P. C. He seized one colour photo copy and two photo copies of invitation letter of both sides as proof of marriage under proper seizure list. He arrested the accused namely Biswajit Halder on 10.04.2022. He could not arrest the other accused person. After completion of investigation and on consultation of the superior officers, he submitted charge-sheet.

24) In his cross-examination, he stated that he had not got any evidence that one year after marriage of Namita, torture started. He had not got any document that the said victim was suffering from TB.

25) After completion of prosecution evidence the accused persons were examined u/Sec. 313 Cr. P. C. The accused persons adduced no evidence before this Court to falsify the case of the prosecution.

26) At the time of argument, Ld. P.P.-in-charge submits that the prosecution has been able to prove the case beyond all reasonable doubts and the accused persons be prosecuted accordingly.

27) At the time of argument Ld. Defence Counsel submits that no witness has stated anything to corroborate the case of the prosecution and the prosecution has miserably failed to bring home the charge against the accused persons beyond all shadow of doubt and they are entitled to get an order of acquittal.

28) Considering the materials on record and the evidence of the prosecution and the documents filed by them and argument advanced by the Ld. P.P.-in-charge and Ld. Advocate for the Defence, I find that the de-facto complainant has lodged a written complaint stating that she was married with accused Biswajit Halder on 10.07.2018 according to Hindu Rites and Customs. After her marriage, she went to her matrimonial house and started to live there as husband and wife. After one year of her marriage, she gave birth of a daughter namely Ishita Halder. Since then they started to torture her. They also tried to administer poison to kill her. She could not bear the torture and became ill. Lastly on 08.04.2022 the accused persons tortured her with an intention to kill her. She came back to her father's house.

29) But the de-facto complainant in her evidence has stated that after giving birth of the said female child the accused persons started to torture her and threatened her to administer poison and to strangle. For the said torture, she was suffering from T.B. Lastly her father took her back to his house. But the de-facto complainant could not give any evidence of torture by any document. Though she has stated that before filing of this case she went to Panchayat who advised her to reside with her husband in her matrimonial house. This statement shows that there was no allegation of torture made before the said Panchayat. The de-facto complainant has also admitted that when she came back to her father's house, her husband used to their house to take her back and then there was an atmosphere of happiness and she willingly went back with her husband. She also could not file any document to prove her suffering from T.B.

30) The other witnesses have also not stated anything against the accused persons. They have stated that the accused persons used to torture the de-facto complainant. But they failed to submit any proof in this respect. Rather they have admitted that the de-facto complainant used to go back happily with her husband to her matrimonial house whenever her husband came to take her back. This statement show that there may be some family dispute and quarrel but which do not amount to torture. There was also no prove to kill her by administering poison or strangulation.

31) Thus, the written complaint remained uncorroborated.

32) The prosecution has produced the I.O. of this case to prove the allegations against the accused persons. In my view, the evidence of the I.O. has not made any improvement or brought any evidence against the accused persons to prosecute them under the law.

33) The prosecution has not produced the doctor. of this case to prove the allegations against the accused persons. In my view, the evidence of the doctor is very much required for considering the allegation of assault against the accused persons.

34) Under such circumstances, I find that the written complaint not only remained uncorroborated either by the de-facto complainant or by any witnesses, rather no witness stated anything which can be hold as an evidence against the said accused persons beyond all reasonable doubts.

35) Considering the deposition of the witnesses including the exhibited documents and other materials in record, I am of the view that the prosecution has failed to bring home the charge against the accused persons beyond all shadow of doubt. Accordingly, the accused persons are entitled to get an order of acquittal.

Hence, it is,

ORDERED

that the accused persons, namely, **Biswajit Haldar and Durga Haldar** are found not guilty to the offence punishable **u/Secs. 498A/307/34 of IPC** and they are acquitted from this case in terms of Section 235(1) of Cr. P. C.

Sureties are released from their liability, subject to provisions of 437(A) of CrPC and accused person are set at liberty.

The seized articles, if any, be destroyed after lapse of the statutory period of appeal.

Inform all concern.

Let a copy of judgment be sent to Ld Secretary District Legal Service Authority Murshidabad for information and compliance of Judgment of Hon'ble High Court at Calcutta in ***Malati Sardar Vs State of West Bengal***.

D/C by me.

ASJ,FTC-II, Jangipur
Murshidabad.

ASJ,FTC-II, Jangipur,
Murshidabad.