

IN THE COURT OF JUDICIAL MAGISTRATE, KALYANI, NADIA

PRESENT : NURUZZAMAN ALI,
Judicial Magistrate,
KALYANI, NADIA (In-Charge)

In the matter of :-

G.R. Case No. 314 of 2023
C.I.S. Reg. No. G.R. Case No.314 of 2023
C.N.R. Reg. No. WBND0E-003331-2022
J.O. Code No. WB00989

&

In the matter of :- State of West Bengal

.....COMPLAINANT

Vs.

1. Saptarshi Paul

.....ACCUSED PERSON

A case under sections- 498-A I.P.C.

J U D G M E N T

Date of Delivery: 18/07/2023

The case of the prosecution, in a nut-shell, is that the de-facto complainant, namely, Diti Bhattacharjee lodged a written complaint before the I.C, Kalyani P.S., Nadia, alleging that about seven years ago, she got married with the accused, namely, Saptarshi Paul according to Hindu rites and customs. After marriage, she went to her matrimonial house to lead her conjugal life. Out of their wedlock she gave birth to one female child. The de facto complainant stated that on 31.07.2022 at about 12-30 a.m. the

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accused person abused her in filthy languages, physically assaulted her and drove her out from her matrimonial home. As a result of which the de facto complainant sustained injury and got treated at Kalyani J.N.M. hospital. After that, she had lodged the written complaint before the I.C, Kalyani PS, Nadia. On receipt of this complaint, the I.C., Kalyani P.S. started P.S. Case No.430/2022 dt. 31/07/2022 u/s 498-A I.P.C. After investigation charge-sheet had been submitted under sections 498-A/323 I.P.C. Charge was framed against the accused person under section 498-A of I.P.C. Accused person pleaded not guilty and trial of this case began against him.

Points for consideration

Whether the accused person committed an offence punishable under section 498-A of I.P.C. or not ?

Decision with reasons

Prosecution had cited only one witness.

PW-1, Diti Bhattacharjee, who is the de-facto complainant cum victim of this case deposed that she was the de-facto complainant of this case and she had lodged the complaint. Her marriage was solemnized with accused person, namely, Saptarshi Paul according to Hindu rites and customs. After marriage, she went to her matrimonial house to lead her conjugal life. She lodged a case at Kalyani PS against those accused person as a misunderstanding was there between herself and the accused person. But at that time, everything had been settled between them. She proved her signature on the written complaint lodged by her and it had been marked as Exbt.1. She did not have any allegation against the accused person.

Cross-examination of the witness had been declined by the Ld. Defence Counsel.

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Examination of accused person u/s 313 Cr.P.C.

The accused person was examined u/S 313 Cr.P.C. He said that he was not guilty.

Argument forwarded by learned advocate for Prosecution

Learned APP argued that the victim only was examined but she could not corroborate the case of the prosecution. Other witnesses could not be brought and the case of the prosecution could not be corroborated.

Argument forwarded by learned advocate for the Defence

Learned advocate for the accused person argued that the prosecution could not prove the case beyond shadow of all reasonable doubts and the accused person was entitled to get an order of acquittal.

View of the Court

Heard learned advocates for both sides and perused materials on record. After perusal and hearing, it appears that the witnesses of this case could not corroborate the case mentioned in the written complaint. The de-facto complainant was examined as PW-1. She deposed that due to misunderstanding between herself and the accused person, she had lodged the complaint and at that time, she had no allegation against the accused person. It further appears that there is insufficient incriminating materials so as to warrant the conviction of the accused person. The de-facto complainant had no allegation against the accused person. So, I am of the considered view that the prosecution could not prove the case beyond shadow of all reasonable doubts. As such, the accused person is entitled to get an order of acquittal on the benefit of doubt.

In criminal trial the burden of proof remains on the Prosecution to prove the guilt of the accused person. The prosecution has to stand on its own leg. In **Toran Singh v. State of Madhya Pradesh reported in AIR 2002 SC 2807 (D)** it was held that prosecution case should rest on its

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strength and not on the absence of explanation or plausible defence by accused person. In the case at hand, the Prosecution has miserably failed to discharge its burden to prove the case. As such, the accused person is entitled to get an order of acquittal on the benefit of doubt.

Hence, it is,

ORDERED

that the above-named accused person, namely, Saptarshi Paul have been found not guilty of the offence u/s 498-A I.P.C. and consequently, he is acquitted from this case u/s 248(1) Cr.P.C. He is to be set at liberty at once after being released from his bail-bonds.

In compliance of the solemn order passed in the case of Sabitri Bhunya Vs. State of West Bengal and others in CRAN No. 1/20 dated 29/03/2022 and communicated vide no. 2529 RG dated 10/05/2022 it is further ordered that the victim of the alleged offence is at liberty to prefer an appeal against this order of acquittal as per the provision of the Proviso to Section 372 of Cr.P.C. and he or she may also avail free legal assistance through the legal services authority to prefer and prosecute such appeal.

Dictated and corrected by me,

*Sd/-
Nuruzzaman Ali
Additional Judicial Magistrate,
Kalyani, Nadia (I/C)*

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