

**IN THE COURT OF THE Ld. JUDICIAL MAGISTRATE  
1<sup>st</sup> CLASS, DANTAN, DIST. PASCHIM MEDINIPUR**

PRESENT:

MR. MIFTAHUL ISRAR

JUDICIAL MAGISTRATE, 1<sup>ST</sup> CLASS

DANTAN, DIST. PASCHIM MEDINIPUR

**G.R. No. 191 of 2021**

**T.R. NO. 328 of 2022**

**CIS Filling No. 1127 of 2022**

**CIS Registration No. 729 of 2022**

**CNR No. WBWMOG-001127-2022**

**State of West Bengal**

-VS-

**Tapan Jana**

..... ACCUSED PERSONS

CHARGE UNDER SECTIONS 341/323/509/506 OF THE INDIAN PENAL  
CODE, 1860

JUDGMENT DELIVERED ON THIS 11<sup>th</sup> DAY OF SEPTEMBER, 2023

**J U D G M E N T**

The wheels of criminal law was set into motion that one Mamoni Das Jana [in short the complainant] lodged a written complaint against accused **Tapan Jana** [in short the accused] with Mohanpur Police Station.

The crux of the allegation is that on 27.03.2021 at about 02.00 pm, the accused persons threatened her when she was going to her home for taking lunch after discharging duty of police agent of Bidhan Sabha Election. On 28.03.2021 at about 03.00 pm, the accused came to the house of the defacto complainant and threatened her to outrage her modesty. Hence this is the complaint.

On receipt of such complaint, the Mohanpur Police Station started Mohanpur Police Station case Number 55/21 dated 28.03.2021 under section 341/323/506/254 IPC.

After completion of investigation, the authority of Mohanpur Police Station submitted Charges Sheet against the sole accused under section 341/509/506/509 of the Indian Penal Code.

Let, it remain mentioned that the accused has surrender before Ld. Court and he was enlarged on bail in the meantime and as such he 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 under Section 341/323/506/509 of the India Penal Code, 1860, (in short the IPC) to which he 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. Mamoni Das Jana (defacto complaint) | : | P.W. -1  |
| 2. Soma Chanda Das                     | : | P.W. - 2 |

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

- |                                                                               |   |             |
|-------------------------------------------------------------------------------|---|-------------|
| 1. Signature of the defacto complainant :<br>appears on the written complaint | : | Exhibit - 1 |
|-------------------------------------------------------------------------------|---|-------------|

During the examination of chief and cross examination of the prosecution witnesses valuable and relevant evidences does not come out to incriminate the accused person. The evidence of the prosecution was closed as per prayer of the Ld. A.P.P. The formal FIR and other valuable documents were not marked as Exhibit to this case on behalf of the prosecution. There is a shadow of reasonable doubt whether the accused person has committed the offences alleged against him or not. The defense did not adduce any evidence. The case, as it appears from the trend of argument and cross examination as well as examination the accused person 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 person 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. During the examination in chief, the defacto complainant (P.W. 1) stated that “I have filed this case out of misunderstanding and I have no allegation against the accused person”. Other prosecution witness did not corroborate the prosecution case. The formal FIR and other valuable documents were not been marked as Exhibit on behalf of the prosecution. The prosecution witnesses could not say to incriminate the accused person. There is a shadow of reasonable doubt and suspicious whether the accused person has done over acts on the issue. The advantage of benefit of doubt shall get accused person. They practically leave the record without any incriminating evidences against the accused.

The FIR 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 person is not guilty of the offence charged against him.

Accordingly it is :

**ORDERED**

That the accused person **Tapan Jana** is found not guilty of the charges under sections 341/323/506/509 of the IPC as were leveled against him.

He is hereby acquitted from said charges under Section 255(1) of the Code of Criminal Procedure, 1973.

He be set at liberty forthwith.

Surety be released from bonds.

No alamot.

Note in the T.R.

**Sd/- Miftahul Israr**

Judicial Magistrate

1<sup>st</sup> Class, Dantan

J.O. Code WB01295

Typed, corrected and  
printed by me:

**Sd/- Miftahul Israr**

Judicial Magistrate

1<sup>st</sup> Class, Dantan

J.O. Code WB01295