

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

PRESENT:

MR. MIFTAHUL ISRAR

JUDICIAL MAGISTRATE, 1ST CLASS

DANTAN, DIST. PASCHIM MEDINIPUR

G.R. No. 465 of 2022

T.R. No. 346 of 2022

CIS Filing No. 1159 of 2022

CIS Registration No. 757 of 2022

CNR No. WBWM0G-001159-2022

State of West Bengal

-VS-

(1) Falguni Patra, (2) Ajoy Patra & (3) Smt. Suchitra Patra

..... ACCUSED PERSONS

CHARGE UNDER SECTIONS 498A/323/354B/406/506/509/34 OF THE
INDIAN PENAL CODE, 1860

JUDGMENT DELIVERED ON THIS 19th DAY OF DECEMBER, 2022

J U D G M E N T

The wheels of criminal law was set into motion that one Smt. Dipika Patra [in short the defacto complainant] lodged a written complaint under section 156(3) Cr.P.C. against (1) Falguni Patra, (2) Ajoy Patra & (3) Smt. Suchitra Patra [in short the accused] before Ld. A.C.J.M. Dantan.

The crux of the allegation is that the defacto complainant got marriage with Falguni Patra on 26.05.2016 as per Hindu religious and customs. At the time of her marriage, her father has given gold ornaments and other valuable articles. After getting marriage, she came to her matrimonial home and started to lead conjugal life with her husband. Out of their wedlock, one male child was born. After her marriage, the accused persons used to do physical and mental torture and they also asked the defacto to bring Rs. 01 lacs from her father. They also did not provide sufficient food to the defacto complainant. The accused Ajoy Patra outraged the modesty of the complainant by pulling her wearing apparels. On 22.03.2022, the accused persons drove out the defacto complainant from her matrimonial home. Hence this is the complaint.

In order to redress the ill act backed by ill motive of the accused, the complainant filed the aforesaid complaint before the Ld.

A.C.J.M., Dantan with prayer for direction upon Dantan Police Station to consider the same as FIR and do the needful.

Ld. A.C.J.M., Dantan has been pleased to send the complaint to the Dantan Police Station and directed to treat the complaint as FIR and investigate the matter.

On receipt of such compliant, the Dantan Police Station started Dantan Police Station case Number 211/2022 dated 02.06.2022 under section 498A/323/307/354B/406/506/509/34 of Indian Penal Code (in short IPC) and under section 3/4 D.P. Act.

After completion of investigation, the authority of Belda Police Station submitted Charges Sheet against the accused persons under section 498A/323/354B/406/506/509/34 of the Indian Penal Code and under section 3/4 D.P. Act.

Let, it remain mentioned that accused were enlarged on bail in the meantime and as such they 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 persons under Section 498A/323/354B/406/506/509/34 of the India Penal Code, 1860, (in short the IPC) to which they 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. Dipika Patra (defacto complaint) | : | P.W. -1 |
| 2. Keshab Chandra Patra | : | P.W. - 2 |
| 3. Susama Patra | : | P.W. - 3 |
| 4. Ajoy Kumar Patra | : | P.W. - 4 |

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

- | | | |
|--|---|-------------|
| 1. Signature of the defacto complainant appears on the written complaint | : | Exhibit - 1 |
| 2. Statement of the defacto complainant recorded under section 164 Cr.P.C. | : | Exhibit - 2 |

During the evidence of the prosecution witnesses valuable and relevant evidences does not come out to incriminate the accused persons. There is a shadow of reasonable doubt whether the accused persons have committed the offenses alleged against them or not. The evidence of prosecution was closed after considering the petition for evidence closed which was filed by Ld. A.P.P. The defense did not adduce any evidence. Their case, as it appears from the trend of argument and cross examination as well as examination the accused persons 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 persons 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. The defacto complainant P.W. 1 stated in the examination in chief that “ I have filed this case against the accused persons out of misunderstanding & I have no allegation against the accused persons”. Other prosecution witness did not corroborate the prosecution case. There is no corroborative evidence supporting the prosecution case. The written complaint has not been marked as Exhibit on behalf of the prosecution. There is no corroborative evidence supporting the prosecution case. There is a shadow of reasonable doubt and suspicious whether the accused persons have done over acts on the issue. The advantage of benefit of doubt shall get accused persons. They practically leave the record without any incriminating evidences against the accused.

The FIR (written complaint) 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 persons are not guilty of the offense charged against them.

Accordingly it is :

ORDERED

That the accused persons (1) Falguni Patra, (2) Ajoy Patra & (3) Smt. Suchitra Patra are found not guilty of the charges under sections 498A/323/354B/406/506/509/34 of the IPC as were leveled against them.

They are hereby acquitted from said charges under Section 248(1) of the Code of Criminal Procedure, 1973.

They be set at liberty forthwith.

Sureties be released from bonds.

No alamot.

Note in the T.R.

Sd/- Miftahul Israr

Judicial Magistrate, 1st Class,

Dantan, Paschim Medinipur

J.O. Code WB01295

Typed, corrected and

printed by me:

Sd/- Miftahul Israr

Judicial Magistrate, 1st Class

Dantan, Paschim Medinipur

J.O. Code WB01295