

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
KHATRA, BANKURA

Present: Shri Dilip Kumar Das,
Additional Sessions Judge,
Khatra, Bankura.
(J.O. Code: WB00638)

S.T. No. 03(06)2019
Sessions Case No. 12(01)2018
GR. No. 51/2017
CNR no-WBBK09000046 2018

State of West Bengal

Vs.

- 1. Uday Kr. Pandey,**
- 2. Sadhan Chandra Pandey,**
- 3. Chapalarani Pandey,**
- 4. Mousumi Mahanta,**
- 5. Barun Mahanta and**
- 6. Rupali Mahanta.....Accused persons.**

In connection with the Taldangra PS case no. 16/2017, dated- 13.02.2017 U/Ss. 498A/323/325/307/34 of the IPC and 3/4 D.P. Act.

Later Order

Dated- 20.07.2026

The case record is put up before the court for passing necessary order.

All the six (06) accused persons namely, 1. Uday Kr. Pandey, 2. Sadhan Chandra Pandey, 3. Chapalarani Pandey, 4. Mousumi Mahanta, 5. Barun Mahanta and 6. Rupali Mahanta of this case are present before the court.

Ld. Advocate for the accused persons is present before the court.

Ld. PP-in-charge is also present.

It is submitted on behalf of the defence that the prosecution got ample opportunities to examine their all the witnesses, but they have not examined all the charge-sheeted witnesses before this court and considering the materials in the record, necessary order should be passed as per the discretion of the court.

The fact of the prosecution case in short is that the de facto complainant as well as

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the victim namely, Moumita Pandey lodged a written complaint to the Officer-In-Charge of the Taldangra PS on 13.02.2017 alleging inter alia that she married the accused Uday Kr. Pandey on 20.11.2013. The accused Uday Kr. Pandey is a CRPF personnel and he used to reside at this place of work in connection with his service. It is alleged by the de facto complainant that she used to reside with her in-laws and her husband used to visit the residence after a long gap of time and by taking the undue advantage of this absence of her husband the in-laws, the accused persons herein used to torture her physically and mentally with the demand for bringing money and different articles from the residence of her father. It is further alleged that after the arrival of her husband the accused persons used to consume liquor jointly and used to torture her.

As per the allegation of the victim, after one year of her marriage a daughter was born out of their wedlock and due to the birth of that daughter the torture upon her became intensified and one day the accused persons attempted to murder her by suffocating after pressing pillow on her mouth. But when she tried to resist them the accused persons attempted to strangle her with a piece of rope. When the victim could not tolerate these tortures upon her then she was compelled to come back to the residence of her father. Concerning the dispute between the victim and her in-laws two meetings on 07.07.2016 and 08.07.2016 were called for to the local panchayat and the members of the panchayat requested the victim to go to her matrimonial home. Accordingly her father went to the residence of the accused persons with the victim but on that day the accused persons assaulted the victim and her father and they were treated by the medical officer of the hospital. In view of the above facts and circumstances, the victim as well as the de facto complainant Moumita Pandey took the shelter of the Taldangra PS and lodged the instant complaint against the accused persons namely, 1. Uday Kr. Pandey, 2. Sadhan Chandra Pandey, 3. Chapalarani Pandey, 4. Mousumi Mahanta, 5. Barun Mahanta and 6. Rupali Mahanta.

Receiving the complaint a case being the Taldangra PS Case No. 16 of 2017, dated- 13.02.2017, U/Ss 498A/323/325/307/34 of the IPC and read with sections 3/4 of the D.P. Act was registered.

After completion of investigation, the IO submitted the charge-sheet against the six accused persons namely, 1. Uday Kr. Pandey, 2. Sadhan Chandra Pandey, 3. Chapalarani Pandey, 4. Mousumi Mahanta, 5. Barun Mahanta and 6. Rupali Mahanta before the court of Ld. ACJM, Khatra being the Taldangra PS charge-sheet No. 37 of 2017, dated- 29.04.2017, U/Ss 498A/323/307/34 of the IPC and U/Ss. 3/4 of the D.P. Act. The Ld. ACJM, Khatra then committed the case record before this court and

directed the accused persons to be present before this court on the date fixed.

After appearance of all the six (06) accused persons namely, 1. Uday Kr. Pandey, 2. Sadhan Chandra Pandey, 3. Chapalarani Pandey, 4. Mousumi Mahanta, 5. Barun Mahanta and 6. Rupali Mahanta before this court charges were framed against the said accused persons on 27.06.2019, U/Ss 498A/307/34 of the IPC.

The charges so framed were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

After framing of different schedules and after getting ample opportunities, the prosecution was able to examine only eight (08) witnesses, out of sixteen (16) charge-sheeted witnesses.

Some documents have been exhibited on behalf of the prosecution and those are :

- (1) Exbt.P-1 - Signature of the PW-2 on the written complaint.
- (2) Exbt. P-2 - Signature of the PW-2 on the formal FIR.
- (3) Exbt. P-3, P-3(1), P-3(2), P-3(3) - Signatures of PW-2 on the statement recorded U/S. 164 of Cr.P.C.

Heard arguments of both sides.

It is seen that out of thirteen witnesses examined on behalf of the prosecution, the PW-1 is an other witness and he stated that after marriage the victim Moumita used to reside with the accused Uday Pandey at her matrimonial home. He also states that he was not examined by the IO of this case. The PW-1 ultimately turned hostile. So, he is of no help for the prosecution as no incriminating material could be found from his deposition before the court.

The PW-2 is the de facto complainant Moumita Pandey and she in her examination-in-chief stated before the court that the accused Uday Kr. Pandey works in CRPF and at the time of birth of her daughter he did not come and he came to his house after one month of the birth of her daughter. She also states that when her child was aged about one year nine months at that time Uday Kr. Pandey attempted to murder the said child by pressing pillow on her mouth and at the time of the said incident other accused persons were also present there and when she tried to save the child then the accused persons attempted to murder her by hanging with a rope and after that she went to her paternal home with her father.

The PW-2 further alleges that on 08.07.2016 one meeting was called for at the village of the accused persons but none of the accused persons attended the said meeting.

On that day she and her father went to her matrimonial home for bringing the wearing apparels of the child and at that time the accused persons abused them and also assaulted them and so that she had undergone treatment at Garbeta Hospital. PW-2 made statement to the Ld. Judicial Magistrate, Khatra and after the completion of recording of her statement she put her signatures on the said statements and her signatures are marked as Exbt. P-3, Exbt. P-3(1), Exbt. P-3(2) and Exbt. P-3(3). So, in her examination-in-chief the PW-2 brings direct allegation against the accused persons. But in her cross-examination admitted before the court that her two Nanads (husband's sisters) do not reside permanently at her matrimonial home. She also admits that the husband of the elder nanad is no more. She stated to the IO that when she went to her matrimonial home then her mother-in-law Chapala Pandey used to reside with her as her father-in-law Sadhan Pandey was working as a police personnel. So, it is evident from her evidence that the father-in-law of the victim used to reside outside the residence in connection with his service. She also admits that she cannot say the date on which police examined her in regard to this case. She also admits that she told police that her husband came to the house after one month of the birth of her child. But she in her examination-in-chief stated before the court that her husband came after one year nine months of the birth of the child. So, there is a huge gap of time regarding the arrival of the accused Uday Kr. Pandey to the residence after the birth of their daughter.

On the other hand, PW-3 is the father of the victim and in his examination in chief he stated that due to family dispute Moumita lodged the complaint against the accused persons and at present he cannot recollect the exact nature of dispute in her matrimonial home with the accused persons. He was not examined by the IO. Considering his examination in chief he was declared hostile by the prosecution and accordingly it is seen that the PW-3 in spite of being the father did not support the allegation of his daughter i.e. the victim herein.

Similarly, PW-4, Smt. Rinku Acharya is the mother of the victim. She also turned hostile and stated nothing against the accused persons which means that she also did not support the allegation of the victim.

PW-5, Sushanta Dawn is a CS witness and he turned hostile by stating that he has no personal knowledge about the incident of this case. So, his evidence has no evidentiary value before this court.

On the other hand, PW-6 Prasanta Kayari is an independent witness and he stated that the accused persons used to torture Moumita and so that she lodged complaint against the accused persons. But at the same time he in his examination in chief stated

before the court that he does not know how and in what manner the in-laws of Moumita used to torture her. The PW-6 also does not know the reason as to why the accused persons used to torture Moumita. So, though the evidence of PW-6 is against the accused persons, but it is not convincing and it is very formal allegation on behalf of her against the accused persons.

PW-7 came to learn from the father of Moumita that the accused persons used to torture upon MOumita. But he does not know who exactly tortured Moumita and in what manner.

PW-8 categorically states that he does not know the family life of Moumita and he was not examined by the IO. So, he was declared hostile by prosecution and from the cross-examination of the prosecution no incriminating material against the accused persons could be obtained from his mouth.

No other witnesses could be examined on behalf of the prosecution.

It is seen that out of 16 charge-sheeted witnesses prosecution was able to examine only 50% of the charge-sheeted witnesses on dock and they failed to bring the other witnesses for strengthening their case.

It is best known to the prosecution why the remaining witnesses are not examined before the court. The prosecution even failed to examine the Medical Officers and even the IO of this case.

The prosecution submits that they examined witnesses at the best of their ability.

On the other hand, Ld. Defence Counsel submits that the prosecution fails to bring even an iota of evidence before the court and so that, the accused persons should be acquitted.

In view of the above materials in the case record, this court finds that there is no convincing evidence against the accused persons for holding them guilty in this case.

The principle of administration of criminal justice is that the prosecution is under an obligation to prove its case beyond all reasonable doubts. But it is seen that in the instant prosecution case there is no independent, cogent and convincing incriminating material against the accused persons.

The careful perusal of the case record reveals that most of the witnesses turned hostile and they provided no incriminating material against the accused persons. Therefore, the allegations of the victim both in her written complaint as well as in her deposition before the court are not at all corroborated by believable incriminating material at all.

In view of the above discussion it can be safely inferred that the prosecution case

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seriously lacks convincing incriminating evidence against the accused persons for holding them guilty in this case. Therefore, as per the above stated materials on record as well as the submission of both the parties, this court is of the opinion that there is no believable incriminating material against the accused persons at all in relation to the allegation of commission of offence against the victim by the accused persons.

Accordingly, by taking into account the entire facts and circumstances of the case, materials on record and argument of the respective parties, I find no other alternative but to hold that the prosecution case fails and the accused persons are entitled to an order of acquittal.

Hence, it is,

Ordered

that the accused persons namely, **1. Uday Kr. Pandey, 2. Sadhan Chandra Pandey, 3. Chapalarani Pandey, 4. Mousumi Mahanta, 5. Barun Mahanta and 6. Rupali Mahanta** of this case are held not guilty of the offences punishable U/Ss 498A/307/34 of the IPC. As such, they are acquitted of the said charges U/S 232 of the Cr.P.C.

The accused persons be set at liberty by discharging them from their respective bail bonds at once.

Seized Alamat, if there be any, be confiscated to the state after the expiry of the period of appeal.

Dictated and Corrected by me

A.S.J
Khatra, Bankura

Additional Sessions Judge,
Khatra, Dist.- Bankura
J.O. Code WB00638