

Form A

IN THE ADDITIONAL SESSIONS JUDGE DINHATA, COOCH BEHAR	
Present : Sharmistha Ghosh-I (JO Code-WB00997) Additional Sessions Judge, Dinhata, Cooch Behar	
Sessions case no. 82 of 2024 S.T. No. 02 (08) 2025 G.R. Case No. (1)292 of 2024 (CNR No.WBCB05-000854-2024)	
Sitai P.S. case no. 95/2024 dated 18.04.2024	
Complainant	State of West Bengal Or Name of the complainant : Bablu Sarkar
Represented by	Mr. Taherul Islam, Ld.advocate on behalf of the State
Accused	Rup Kumar Bhowmik
Represented by	Sri Nihar Ranjan Gupta, Ld.advocate for the accused

Form B

Date of Offence	17.04.2024
Date of FIR	18.04.2024
Date of Charge-sheet	09.07.2024
Date of Framing of Charges	18.08.2025
Date of commencement of evidence	02.12.2025
Date on which Judgement is reserved	06.06.2026
Date of the Judgement	06.06.2026
Date of the Sentencing Order, if any	

Accused Details :

Rank of the Accused	Name of 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.
1.	Rup Kumar Bhowmik	19.04.24 arrested	12.12.24	Us 498A/304B of Indian Penal Code	Acquitted		

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A : Prosecution

Rank	Name	Nature of evidence (Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witness
PW-1	Bablu Sarkar	Complainant
PW-2	Sumati Sarkar	Niece of the complainant
PW-3	Jayram Sarkar	Brother of the complainant
PW-4	Malay Kumar Sarkar	Police witness
PW-5	Sachin Biswas	Relative of the complainant
PW-6	Abhiram Biswas	Independent witness

B. Defence witnesses :

Rank	Name	Nature of evidence (Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witness

C. Court witnesses, if any :

Rank	Name	Nature of evidence (Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witness

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1.	Ext.P-1	Written complaint
2.	Ext.P-1/1	Signature of PW-1 on the complaint
3.	Ext.P-1/2	Signature of PW-2 on the complaint
4.	Ext.P-2	Carbon copy of the inquest report
5.	Ext.P-2/1	Signature of PW-4 on the carbon copy of inquest report
6.	Ext.P-3	Carbon copy of dead-body challan
7.	Ext.P-4/1	Signature of P.W-4 on the seizure-list

B. Defence

Sr. No.	Exhibit Number	Description

C. Court Exhibits

Sr. No.	Exhibit Number	Description

D. Material Objects :

Sr. No.	Material Object Number	Description

J U D G E M E N T
: PROSECUTION CASE :

1. The case of the prosecution, in brief, is that on 17-04-2024 at 7:50 P.M the complainant got information that his daughter Dipali Sarkar committed suicide at her bedroom by hanging. He believed that his daughter was mentally tortured for which she compelled to commit suicide. He also believed that his daughter’s husband Rup Kumar Bhowmik and brothers-in-law Amrit Bhowmik, Sukumar Bhowmik and Sudeb Bhowmik inflicted mental torture upon his daughter. His daughter has one female child aged about 2½ years and his daughter was also pregnant for three months at that time.
2. On the basis of complaint the Inspector-in-charge of Sitai police station registered Sitai P.S. case no. 95/2024 dated 18.04.2024 under section 498A/304B of Indian Penal Code against the accused persons. The investigation into the offence was started and the investigating officer after completion of investigation submitted charge sheet against the accused Rup Kumar Bhowmik u/s 498A/304B of I.P.C. vide C.S. no. 155/2024 dated 09.07.2024 and rest accused persons, namely, Amrit Bhowmik, Sukumar Bhowmik and Sudeb Bhowmik were discharged from the case as there was no prima-facie evidence against. Thereafter, the case was committed to this Court by the Ld. Additional Chief Judicial Magistrate, 2nd Court, Dinhata as

the case is exclusively triable by the Court of Sessions and on 09.12.2024 this court received the case for trial and disposal.

3. The prosecution after perusing all materials on record proposed to frame charges u/s 498A/304B of I.P.C. The Court after going through the materials on record found sufficient ground for presuming that the accused Rup Kumar Bhowmik committed offences and accordingly the charges were framed against him for committing offences u/s 498A/304B of I.P.C. The contents of the charges were read over and explained to the accused person in Bengali language and on being asked he pleaded not guilty by saying “Ami Nirodsh” in Bengali language. Thus the trial.

4. Then the prosecution was asked to adduce their evidence. The prosecution, in order to substantiate its case, marshalled in the witness box 6 (six) witnesses. Several documents were exhibited at the course of the instant trial, which shall be adverted to at the relevant stages.

5. When the prosecution concluded its evidence, the accused person was examined u/s 313 of the Cr.P.C wherein the incriminating evidence were put to him to which he replied that all allegations against him are incorrect and the statements given by the PWs are false and fabricated. He claimed false implication by the PWs. In short, the defence contention was a bare denial of the prosecution case in-limini, that he was innocent, had no complicity with the crime, was falsely implicated. Despite opportunity given, he led no evidence in defence. Consequently, matter was then posted for final argument. Oral submissions were placed on behalf of both the prosecution and the defence.

POINTS FOR DETERMINATION

- i) Whether the accused person has committed offences punishable under sections 498A/304B of the Indian Penal Code as alleged ?
- ii) Has the prosecution been able to prove the charges under sections 498A/304B of the Indian Penal Code against the accused ?

DECISION WITH REASONS

6. In order to bring home the charges against the accused person, the prosecution has examined as many as 6 (six) witnesses. In spite of giving

opportunities and offer to adduce defence evidence the accused person did not adduce any evidence at his instance.

7. All the points are conjointly dealt with and discussed for the sake of convenience considering the nature, inter-relation and to maintain brevity and to avoid necessary repetitions.

8. On the basis of the entire evidence on record, it is abundantly clear that the P.Ws have adduced the evidence in a clear manner and as such I feel that it may be just, proper and convenient to scan, scrutinize and assess the effect of the entire evidence as a whole.

9. Now, before scrutinizing the evidence on record, it would be useful to notice the statutory provisions.

10. Scope and ambit of Section 498A of the I.P.C :

Section 498A of the I.P.C deals with the provision regarding husband or relative of husband of a woman subjecting her to cruelty.

Section 498A of the I.P.C lays down that “whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.-----For the purposes of this section “cruelty” means----

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical), of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security is on account of failure by her or any person related to her to meet such demand.

Section 498-A of the Indian Penal Code was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added.

The term cruelty is defined under the explanation to the said section as “(a) any willful conduct which is of such a nature as is likely to drive the

woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman, or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person relating to her, to meet such demand”.

So far as the offence under sec. 498-A of the Indian Penal Code is concerned it is not every kind of cruelty which constitutes an offence under this section. Explanation given below under sec. 498-A of the Indian Penal Code provides that cruelty, for the purpose of this section means any willful conduct which is of such nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) or harassment of the women whether such harassment is with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related her to meet such demand. The explanation given below under sec 498-A of the Indian Penal Code does not warrant the view that simple desertion of wife by the husband amounts to cruelty.

11. Scope and ambit of Section 304B of the I.P.C

Section 304B of Indian Penal Code deals with provision regarding dowry death. The said section lays down that -

“Sec. 304B. Dowry Death – (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called 'dowry death', and such husband or relative shall be deemed to have caused her death.

Explanation - For the purposes of this sub-section, 'dowry' shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which

may extend to imprisonment for life.”

To come under sec. 304B, the prosecution is to establish (i) demand for dowry and consequent harassment for non-fulfilment thereof; (ii) death of the deceased; and (iii) death was under unnatural circumstances within 7 years of marriage. [Ram Badan v State (2006) 10 SCC 115: AIR 2006 SC 2855 : 2006 Cr LJ 4070].

Therefore, in order to convict an accused for the offence punishable under sec. 304B IPC, the following essentials must be satisfied:

(i) the death of a woman must have been caused by burns or bodily injury or otherwise than under normal circumstances;

(ii) such death must have occurred within seven years of her marriage;

(ii) soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relatives of her husband;

(iv) such cruelty or harassment must be for, or in connection with, demand for dowry. [Mustafa Shahadal Shaikh v State of Maharashtra (2012)11 SCC 397: AIR 2013 SC 851].

12. Now let us see how far the prosecution has been able to prove the case by adducing evidence against the accused person and let us decide whether version of prosecution is believable or not through appreciation of evidence.

13. Appreciation of evidence adduced by the prosecution side :

- i. The complainant Bablu Sarkar as P.W-1 has deposed that his daughter Dipali Sarkar was married with accused about 3 years prior to her demise and she died about 1 year and 8 months ago and out of the said marriage his daughter gave birth to a female child. He has also deposed that since after one year of giving the birth of female child, his daughter committed suicide at her matrimonial home by hang and after the demise of his daughter, he lodged his complaint and his complaint was written by his niece Sumati Sarkar as per his version and after writing, she read over the contents to him and then he has put his signature on the said complaint. He has proved his

signature on the complaint which has been marked as exhibit-P-1/1. During cross-examination he has very surprisingly disclosed that his daughter never complained anything against the accused and his daughter was suffering from mental ailment and he does not know the contents of the complaint. Therefore, considering the evidence of the complainant inwhole, I find that the complainant himself did not corroborate the F.I.R and did not support the prosecution case.

- ii. From the evidence of P.W-2 Sumati Sarkar I find that she has deposed that her cousin sister Dipali Sarkar was married with accused about 3 years prior to her demise and Dipali died on 17-04-2024 and she committed suicide at her home and Dipali has got her own daughter out of her marriage. She has also deposed that after the demise of her said sister complainant lodged his complaint at the P.S and she had scribed the complaint as per the version of her uncle. She has proved the said complaint scribed by her as per the version of her uncle which has been marked as exhibit-P-1 and she has also proved her signature on the complaint as a scribe which has been marked as exhibit-P-1/2. Very astonishingly during cross-examination she has disclosed that her sister was suffering from some mental ailment and she never heard anything regarding her marital life. Therefore the P.W 2 also did not support the prosecution case.
- iii. P.W-3 Jayram Sarkar has deposed that his niece Dipali Sarkar was married with accused about 3 years prior to her demise and she died in the year 2024 and she committed suicide at her matrimonial home and she has got one daughter out of her marriage and she does not know why Dipali committed suicide. During cross-examination he has disclosed surprisingly that his niece was suffering from some mental ailment and he never heard anything regarding her marital life. Therefore, the P.W. 3 also did not support the prosecution case.
- iv. P.W-4 ASI Malay Kumar Sarkar has stated that on 18-04-2024 he was posted at Sitai P.S as ASI and he was the E/O in connection with

Sitai P.S UD case no. 11/2024 dated 18-04-2024 and on that date he conducted inquest over the dead-body of Dipali Sarkar and prepared inquest report thereof in presence of witnesses. He has proved the carbon copy of inquest report prepared by him which has been marked as exhibit-P-2 and he has also proved his carbon impression signature on the carbon copy of inquest report which has been marked as exhibit-P-2/1. He has also stated that after inquest he sent the dead-body to Mathabhanga hospital for postmortem examination along with dead-body challan through constable no. 1358 Bipul Roy of Sitai P.S. He has proved the carbon copy of dead-body challan prepared and signed by him which has been marked as exhibit-P-3. He has further stated that after postmortem examination, he collected P.M blood and viscera of the deceased from the constable Bipul Roy and handed over the same to the I/O of this case who seized the same by preparing seizure-list in which he put his signature as seizure witness. He has proved his signature on the said seizure-list which has been marked as exhibit-P-4/1.

- v. From the evidence of P.W-5 Sachin Biswas I find that he has deposed that Rup Kumar Bhowmik got married with another daughter of Bablu Sarkar, namely, Dipali Sarkar about 7 years ago and two years ago, said Dipali Sarkar died and he heard that she committed suicide and he does not know why Dipali committed suicide. During cross-examination surprisingly he has disclosed that he knows that Dipali was leading happy conjugal life at her matrimonial home. Therefore, the P.W. 5 also did not support the prosecution case.
- vi. From the evidence of P.W-6 Abhiram Biswas I find that he has deposed that Rup Kumar Bhowmik got married with the daughter of Bablu Sarkar, namely, Dipali Sarkar about 6/7 years ago and said Dipali Sarkar died by committing suicide by hanging and he does not know why Dipali committed suicide. Very astonishingly during cross-examination he has disclosed that he knows that Dipali was leading happy conjugal life at her matrimonial home with Rup

Kumar Bhowmik. Therefore P.W6 also did not support the prosecution case.

- vii. There is no other evidence adduced by the prosecution side.
- viii. Doctor and I.O. of this case have not been examined by the prosecution side.
- ix. So, considering the evidence on record it is abundantly clear that there is practically no reliable evidence on record in support of the prosecution case.
- x. Therefore, the prosecution case creates doubt about the charges under sections 498A/304B of Indian Penal Code against the accused person.
- xi. Therefore, in the background of the above findings and observations I have no doubt in my mind to conclude that the evidence adduced by the prosecution side in support of the charges labeled against the accused person do not at all inspire any confidence in the mind of this Court for holding the same to have any merit and as such the accused person is surely entitled to an order of acquittal at least on the ground of benefit of doubt.

In the end prosecution case fails.

Hence, it is

ORDERED

that the prosecution has failed to prove the acquisition under sections 498A/304B of Indian Penal Code against the accused, namely, Rup Kumar Bhowmik

So, the said accused person is found not guilty under sections 498A/304B of the Indian Penal Code and he is acquitted from the case under section 235(1) of Cr.P.C.

He is discharged from his respective bail bonds.

Seized alamats, if any, be destroyed after expiry of the period of appeal.

The complainant or the legal heir of the deceased has a right to prefer appeal under the proviso to section 372 of Cr. P.C. against this Judgment and if required may seek free legal assistance from the appropriate legal service authority to prefer and prosecute such appeal.

Let a copy of this judgment be forwarded to the District Magistrate, Cooch Behar and to the Secretary, DLSA, Cooch Behar for due intimation to the victim [As defined under section 2(wa) of the Code of Criminal Procedure] of his/her right to prefer an appeal against this judgment under proviso to Section 372 of the Code of Criminal Procedure and if necessary, to avail free legal assistance through the legal services authority concerned to prefer and prosecute such appeal.

Dictated & corrected by me,

Sd/-

Additional Sessions Judge,
Dinhata

Sd/-

Additional Sessions Judge,
Dinhata