



Form No. (M) 34

<u>IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN</u> <u>MAGISTRATE-I, CALCUTTA</u> Present : Dibyendu Nath, [J.O Code: WB01098] Additional Chief Judicial Magistrate-I, Calcutta. [Date of the Judgement: 27.07.2026] [Case No. GR/513/2022] T.R No.178 /2022 Reg. No. GRN/513/2022 CNR No. WBCS02-146476-2022 (FIR No.94/2022 dt.27.04.2022, U/s. 341/323/506 of IPC, Police Station- Burtolla)	
COMPLAINANT	STATE
REPRESENTED BY	DIP NARAYAN PAKRASI, ADDITIONAL PUBLIC PROSECUTOR
ACCUSED	1. DEEPAK SINGH S/O-LATE PRATAP BAHADUR SINGH ADDRESS:- 10B, ABINASH KABIRAJ STREET, PS-BURTOLLA, KOLKATA- 06. 2. JAVITRI DEVI S/O-LATE PRATAP BAHADUR SINGH ADDRESS:- 10B, ABINASH KABIRAJ STREET, PS-BURTOLLA, KOLKATA- 06 (FILED FOR EVER ON 27.01.2026).
REPRESENTED BY	DHANANJAY CHAKRABORTY

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Date of Offence	27.04.2022
Date of FIR	27.04.2022
Date of Charge-sheet	06.08.2022
Date of framing of charge	07.07.2023
Date of commencement of Evidence	05.03.2024
Date on which Judgement is reserved	27.07.2026
Date of the Judgement	27.07.2026
Date of the Sentencing Order, if any	27.07.2026

Accused details:

Rank of the accused	Name of the 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	Deepak Singh	Surrendered on 28.06.2022	28.06.2022	US 323/341/498A/406/506/34 IPC	acquitted	N/A	NIL
2	Javitri Devi	Surrendered on 28.06.2022	28.06.2022	Filed For ever on 27.1.2026	_____	_____	_____

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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)
PW1	Amar Singh	Witness
2	Vinoy Kumar Singh	Witness
3	Reema Singh	Complainant

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit-P-1/PW-03	Written complaint
2	Exhibit-P-1/1/PW-03	Signature of PW-1 on written complaint

B. Defence:

Sr. No.	Exhibit Number	Description
1	NIL	NIL

Sr. No.	Exhibit Number	Description
1	NIL	NIL

A. Prosecution Case:-

1. The prosecution case, in brief, is that one **Reema Singh**, W/o Deepak Singh of 12, Abinash Kabiraj Street, Kol-06, lodged a complaint before Burtolla PS against the accused persons to the effect that the accused person no.1 being the husband of the complainant and accused person no. 2 being mother-in-law in furtherance with their common intention torture the complainant both mentally and physically since after marriage and on 27.04.2022 at 19:00 hrs., at 12, Abinash Kabiraj Street, Kol-06, the accused person no. 1 wrongfully restrained the complainant and her brother and he physically assaulted them. As a result for that assault they sustained injury on their persons and they were treated and discharged from R.G. Kar Medical College & Hospital. Hence this case.

B. DEFENCE CASE IN NUTSHELL:

2. Defense case as can be captured from the cross examination of the prosecution witnesses and examination of the accused person u/s 313 of Cr. P. C is the total denial of the prosecution case.

C. THE INVESTIGATION

3. After receiving complaint, O.C. of Burtolla Police Station started this case being no. **94/2022** dated **27.04.2022**, u/s **341/323/506 of IPC** against the above named accused persons and S.I, **Bijoy Paul** was endorsed with the investigation.

During investigation, the IO visited the place of occurrence, recorded the statement of the witnesses under section 161 of Cr. P. C. On the basis of the material evidence, a *prima-facie* case has been well established by the I.O against the accused persons and accordingly, as per the direction of his superior, he submitted Charge Sheet **No. 124/2022** dated **06.08.2022** under section **323/341/498A/406/506/34 of IPC** against the accused person.

During trial the case was filed for ever against the accused person **no. 2 namely Javitri Devi vide order dt. 27.01.2026** and as such the case was proceeded against accused no. 1 namely Deepak Singh.

D. THE CHARGE:

4. After considering all materials of record Charge was framed against the accused person for offence u/s- **323/341/498A/406/506/34 of IPC**. The contention of the charge sheet is read over and explained to the accused person in Bengali to which the accused person pleaded not guilty and claimed to be tried vide order dated **07.07.2023**.

E. EVIDENCE ADDUCED

In order to prove the case the prosecution adduced **03** witnesses:

5. **1) Amar Singh as PW1 (Witness)**
 2) Vinoy Kumar Singh as PW2 (Witness)
 3) Reema Singh as PW3 (Complainant)

In course of trial, the prosecution examined **03** witnesses and they are examined, cross examined and thereafter discharged. Accordingly, upon the prayer of the Ld. A.P.P. that there is no requirement to examine any further witness considering the evidence adduced by the witnesses so far examined. Thus, the stage for witness of prosecution stood closed.

F. Examination of accused u/s 313 of Cr. P. C:

6. After closure of the evidence of the prosecution, the accused person has been examined u/s 313 of Cr. P. C on **27.07.2026** and the examination is reduced into writing and kept with the record. The defence case as emerged from such examination is of general denial in respect of the allegation made in the complaint and the accused person had pleaded his innocence and denied to give any evidence in his support.

G. THE ARGUMENT:

7. Ld. A.P.P. argued that the prosecution witnesses failed to corroborate the story of prosecution and left the entire matter upon court for adjudication. On the other hand, Ld. Advocate for the accused person argued that the independent witnesses did not make any incriminating allegation against the accused person and therefore, the accused person is liable to be acquitted.

H. POINTS FOR CONSIDERATION :

- (I) Whether or not the accused person has committed the offence under sections **323/341/498A/406/506/34 of IPC** ?
- (ii) Whether the prosecution has been able to prove the case beyond all shadow of reasonable doubt ?

I. DECISION WITH REASONS :

8. The main fact-in-issue of this case is whether or not the accused person has committed the offence under sections **323/341/498A/406/506/34 of IPC**. In order to get the answer to such bone of contention, it is to be seen how far the prosecution has been successful in bringing home the charge under sections **323/341/498A/406/506/34 of IPC** against the accused person through its evidence on record. It is the settled position of the law of evidence that *'one who asserts certain facts must prove the same'*.

9. In other words, the burden of proof lies upon the person who is asserting a fact. In as much as the prosecution has brought the charge under sections **323/341/498A/406/506/34 of IPC**, the accused person in the instant case, the burden of proof lies strictly upon the prosecution to bring home the said charges against him. It is also the settled position in criminal law that the prosecution has to prove its case beyond all shadow of reasonable doubt.

10. According to section 101 of Indian Evidence Act, the general burden of proof is always upon the shoulder of the prosecution. The Hon'ble High Court of Delhi in **Sunil Kr. Sharma vs State (CBI) 139 (2007) DLT 407, I (2007) BMC 654**, was pleased to observe that there are three well settled cardinal principles of criminal jurisprudence and they are as follows:-

i) That the onus lies affirmatively on the prosecution from the beginning to the end to prove its case beyond reasonable shadow of doubt and it cannot derive benefit from weakness or falsity of the defense version while proving its own case.

ii) That in a criminal trial the accused must be presumed to be innocent unless he proved to be guilty.

iii) That the onus of the prosecution to prove its own case never shifts upon the shoulder of the accused person.

11. In this background and in order to prove the said charge, the evidence of the prosecution becomes very important and it is to be seen whether or not the prosecution has been able to prove its case beyond all shadow of reasonable doubt. In order to prove its case, the prosecution has adduced the evidence of the 03 prosecution witnesses and then it has been closed.

11. Firstly, I can start my discussion with the evidence of **PW-03, Reema Singh** who happens to be the *de-facto* complainant of this case. PW-03 is the FIR maker and for that reason her evidence assumes supreme importance. The fate of the prosecution case largely depends on how she deposes in her examination-in-chief and how steadily she faced the acid test of cross examination.

12. She has stated in her examination-in-chief that she lodged a written complaint before the Burtolla PS on 27.04.2022 against her husband Deepak Singh and her mother-in-law, who died earlier. She further stated in her examination-in-chief that she lodged this complaint against the accused persons out of misunderstanding.

13. During her examination-in-chief she proved the written complaint which has been marked as **Exbt.-P-1/PW-03** and also proved her signature in the written complaint which has been marked as **Exhibit-P-1/1/PW-03**.

14. Now let me consider whether the Ld. Defence Counsel succeeded in shaking the veracity and credibility of this witness by dint of her cross-examination. At the time of cross-examination PW-1 has specifically stated that she cannot say the place and date of incident and she do not remember whether the accused persons were present or not at the time of incident. She clearly stated in her cross examination that she had no objection if the accused person is acquitted from this case.

15. Thus, in the end of this part of my discussion, I may safely conclude that the evidence of this witness (PW-1) stands not credible even after going through the ordeal as set up by the defence. From the aforesaid oral evidence of PW-1, I do not find any corroboration the material evidence of written complaint as well as the evidence of victim.

16. Now, we should consider the evidence of **PW-01 and PW-02**. From the evidence of **PW-01 and PW-02**, it appears that they nothing to say about the fact of this case. From the evidence of PW-01 and PW-02, it reveals that there is no corroborative evidence against the accused person and as such from their evidence no incriminating materials come up.

17. Considering all the material evidence of the prosecution, I have come to the reasoned opinion that there is indeed importance of corroboration of FIR by an independent witness but same shall not be considered as a *sine qua non* for contemplating conviction. Conviction can even be awarded when there is no other witness excepting the victim, provided the prosecution case is otherwise believable.

18. Despite being given several opportunities the prosecution failed to substantiate its case by giving proper cogent and reliable evidence. Failure on the part of the prosecution in this regard negates the case of the prosecution. Practically the prosecution case has got no basis to stand up.

19. After a detailed critical analysis of the entire materials on record and after considering both sides' argument, I may decisively reiterate that the prosecution witness, has not effectively corroborated each other as well as the prosecution case as to the material particulars.

20. On the basis of the prosecution witnesses and after considering the surrounding factors, I am inclined to hold that the prosecution case loses its gravity as the same is not proved substantially. There is inherent lack of propriety in the prosecution case. The prosecution case is too feeble and there is indeed no room to contemplate conviction. Thus the accused would get every benefit of doubt in his favour.

Therefore, the allegation could not be proved as there is no cogent corroboration of the evidence of the prosecution witnesses. Therefore, I am of the opinion that the alleged offence u/s **323/341/498A/406/506/34 of IPC** is not established by prosecution beyond all reasonable doubt against the accused person from the testimony of the witnesses.

In the facts and circumstances, the prosecution has hopelessly failed to bring home the charge u/s **323/341/498A/406/506/34 of IPC**. In other words, the version stated in the F.I.R. or the ingredients described in the charge sheet does not get established from the testimony of the prosecution witnesses beyond all reasonable doubt so as to warrant conviction against the accused person. That being so, the accused person is entitled to an order of acquittal.

All the points are thus answered in the negative.

As a result, the instant case fails.

Hence, it is

ORDERED

That the accused person namely, **Deepak Singh** is not found guilty for the offence punishable u/s **323/341/498A/406/506/34 of IPC** and he is accordingly acquitted from this case as per **Section 248(1) of Cr. P. C.**

The accused person is discharged from his bail bond and set at liberty forthwith.

Documents if there any filed by the parties be returned to the concerned party after necessary identification and notes in the case-record.

Note in T.R.

The judgment is pronounced in the open Court in presence of the accused person and given under my hand and seal of the Court today.

Let a soft copy of the judgment be uploaded in the CIS within 48 Hours from now as per Rule 186A of the Cr.R.O of Hon'ble High Court, Calcutta.

Let a copy of this judgement be sent to the *de-facto* complainant.

**Dictated & Corrected
read over and explained**

**Dibyendu Nath
Addl. Chief Judicial Magistrate-I,
Calcutta.**

**Dibyendu Nath
Addl. Chief Judicial Magistrate-I,
Calcutta.**