

WBDD060004592020



**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
GANGARAMPUR AT BUNIADPUR, DAKSHIN DINAJPUR**

**Present: Bibek Tamang,
Additional Chief Judicial Magistrate,
Gangarampur at Buniadpur,
Dakshin Dinajpur.**

**Case No: G.R. No. 621 of 2019.
T.R. No. 228 of 2020.
C.I.S. No. 105 of 2020.**

State

...Complainant

vs.

**1) Dipali Ghosh and 12 others
..... Accused.**

Date of delivery of Judgment on 09.06.2026.

**THIS IS A CASE UNDER SECTION 498A/34 of INDIAN PENAL
CODE.**

CASE OF THE PROSECUTION

The case of the prosecution as per the written complaint is that Narayan Ghosh was involved in business of buying and selling trees and used to frequently visit the house of father of defacto complainant in the village. Because of the frequent visits, the defacto complainant is said to have got involved in relation with Narayan Ghosh and subsequently, Narayan Ghosh is said to have proposed marriage to the defacto complainant. The accused Narayan Ghosh is said to have informed the widow mother of defacto complainant that he will marry the defacto complainant and keep her at her house for few days and take her to his house after few days and in the year 1995, accused Narayan Ghosh is said to have married the defacto complainant. After marriage, the defacto complainant is said to have continued residing at her parental house and the accused Narayan Ghosh is said to visit the defacto complainant frequently and live as husband and wife with the defacto complainant. However, even after several months of marriage, when the accused Narayan Ghosh did not take the defacto complainant home with him, the defacto complainant and her mother are said to have put pressure upon the accused Narayan Ghosh but the accused is said to have made excuse that he has not yet convinced his family members and finally, accused Narayan Ghosh is said to have hired a room on rent at Gangarampur at the house of Luv Sarkar and kept the defacto complainant there and used to visit the defacto complainant frequently and reside as husband and wife. However, even after months of residing at the rented house, when the accused Narayan Ghosh did not take her to the matrimonial house, the defacto complainant is said to have forcefully accompanied accused Narayan Ghosh to his house but the family members of accused Narayan Ghosh are said to have refused to accept the defacto complainant and are said to have driven her out of the house. The accused are said to have inflicted mental and physical torture upon the defacto complainant and the defacto complainant is also said to have got knowledge that accused Narayan Ghosh was previously married and had a wife and son and as such, her husband was refusing to take her to the matrimonial house. It is alleged that only after

spending one night at the matrimonial house, all the accused inflicted mental and physical torture upon the defacto complainant and ousted her from the matrimonial house and accused Narayan Ghosh is said to have taken her back to the rented house. Two daughters namely Mamni Ghosh presently aged 20 years and Sampa Ghosh presently aged 18 years are said to have been born out of the wedlock. It is alleged that in the year 2014, accused Narayan Ghosh stopped giving regular maintenance and also did not pay the rent on time and there used to be dispute between the accused Narayan Ghosh and the defacto complainant. When the accused Narayn Ghosh is said to have stopped paying rent, the defacto complainant is said to have gone to the house of accused Narayan Ghosh along with her minor children but the accused Narayan Ghosh along with other accused are said to have refused to accept them and are said to have made demand for a sum of Rs. 50,000/- and when the defacto complainant is said to have refused, the accused are said to have inflicted torture upon her and are said to have ousted her from the matrimonial house. Since then, the defacto complainant and her children are said to be residing at her parental house with their widow mother. The defacto complainant is said to have filed complaint before Gangarampur PS but no action is said to have been taken. Thereafter, the defacto complainant is said to have been taken and thereafter, the defacto complainant is said to have sent her complaint before the Superintendent of Police, Dakshin Dinajpur but still no action is said to have been taken. As such, the defacto complainant is said to have filed this instant petition of complaint under section 156 (3) of CrPC which was sent to I/C, Gangarampur PS for treating the same as FIR.

Date of filing complaint- 01/08/2019

INVESTIGATION

After investigation the Investigating Officer submitted Charge-sheet under section **498A/34** of the IPC against 13 accused persons bearing Charge-sheet No. 247/2019 dated 31.08.2019.

CHARGE

Charge was framed against the accused persons for the offenses under sections 498A/34 of the IPC was read over and explained to them in Bengali language to which the accused pleaded “Not Guilty” by saying “Amra Nirdosh” and claimed to be tried in accordance to law.

WITNESSES

The prosecution has brought forth five (05) witnesses to bring home the guilt of the accused persons. The evidence chapter of the prosecution was closed on prayer of Ld. APP.

Prosecution witnesses	Name	
P.W.1.	Lobh Sarkar	Witness
P.W.2.	Bina Sarkar	Defacto complainant
P.W. 3.	Dipak Sarkar	Witness
P.W. 4.	Gita Sarkar	Witness
P.W. 5.	Nirmal Sarkar	witness

EXHIBITS

1. No documents were marked as Exhibit.

EXAMINATION U/S 313 OF Cr.P.C

As no incriminating evidence emerged against the accused, examination of the accused u/s 313 of CrPC was dispensed with.

FINDINGS

Before proceeding any further and so as to between appreciate the provision of law and to have a clear understanding of the evidence at hand, let us first dwell into the provision of section 498A of the Indian Penal Code, 1860.

The provision of section 498A of Indian Penal Code,1860 reads as follows:-

498A. Husband or relative of husband of a woman subjecting her to cruelty.—

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 purpose of this section, “cruelty” means—

(a)any wilful 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 related to her to meet such demand.

As such, to attract the provision of section 498A of Indian Penal Code, 1860, the following ingredients must be satisfied:

- i. There should be wilful conduct 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
- ii. There should be harassment of the woman with the objective of coercing her or her relatives to meet any unlawful demand for property or valuable security (such as dowry), or harassment because of a failure to meet such demand

Section 34 of the Indian Penal Code, 1860 provides as follows:

34. Acts done by several persons in furtherance of common intention.—

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

PW1, the landlord of the house where the defacto complainant had been kept on rent by accused Narayan Ghosh, has deposed that she has no personal knowledge regarding the incident and cannot say what took place between them. PW1 also deposed that they used to reside at her house but do not know about their whereabouts at present.

PW2, the defacto complainant, deposed that she was married to Narayan Ghosh in the year 1995. As per the witness, Narayan Ghosh used to come to her village for his business and she developed relation with Narayan Ghosh and Narayan Ghosh approached her mother for marriage. As per the witness, after marriage, she did not go to her matrimonial house and continued to reside at her parental house. The witness also stated that Narayan Ghosh took her to Paschim Haldar Para at Gangarampur where they resided at rented house. The witness also stated that after going to the rented house, the accused Narayan Ghosh stopped giving sufficient money for maintenance and also stopped paying the house rent and as such, the witness is said to have gone to the house of accused Narayan Ghosh to enquire as to why he was not taking her to his house but Dipali Ghosh and others are said to have driven her out of the house. The witness is said to have returned home and accused Narayan Ghosh is said to have assured to settle the issue and thereafter, the witness is again said to have forcefully gone to the house of accused Narayan Ghosh and stayed there for one night but she is again said to have been ousted as she could not meet their demand of Rs. 50,000/-. During cross-examination, it emerged that accused Narayan Ghosh had died during the course of trial and

the witness had never stayed at house of accused Narayan Ghosh and she had no allegations against any accused other than Narayan ghosh.

PW3 denied having any knowledge regarding the incident.

PW4 deposed that Bina Sarkar was married to Narayan Ghosh and after marriage, Bina had stayed at her parental house as her matrimonial house was not habitable and Bina was supposed to return to her matrimonial house after repairing the house and after several days, Narayan Ghosh is said to have taken Bina to rented accommodation and used to inflict torture upon Bina and also used to assault her. The witness also deposed that Bina found out that Narayan Ghosh had been previously married and also had a wife and child and were residing at the matrimonial house. The witness also deposed that Bina used to be assaulted and tortured by her husband for dowry. During cross-examination, the witness deposed that the allegations are only against Narayan Ghosh and not against other accused and Narayan Ghosh is since deceased.

PW5 has deposed that Bina was married to Narayan Ghosh about 25 to 30 years ago and after marriage, Bina stayed at her parental house and her husband kept assuring her that he would take her to the matrimonial house and also took her to her matrimonial house once but he in-laws did not allow her to enter and she was driven out and Narayan Ghosh took her to a rented accommodation ut he could not pay rent and used to put pressure upon Bina to bring money from her parental house. During cross-examination, the witness stated that she had only deposed as per what she had heard and did not know where and when Bina had been married and also stated that she does not know Narayan Ghosh.

PW1, PW3 and PW5 could not shed any light into the incident. PW1 and PW3 have denied having any knowledge regarding the incident as such, no

light into the alleged incident could be shed through their testimony. On the other hand, PW5 has corroborated the case of the prosecution to some extent but her testimony is only hearsay and cannot be relied upon. PW5 also did not disclose from who she had heard about the incident and also did not know where and when the defacto complainant had been married and also did not know accused Narayan Ghosh. Testimony of PW5 being unreliable is not taken into consideration.

PW2, the defacto complainant and the alleged victim corroborated the case of the prosecution but it emerged that the accused Narayan Ghosh had died during trial and the allegation of the defacto complainant is only against accused Narayan Ghosh. In fact, when we go into the allegations of the written complaint and also the testimony of PW2, the role of other accused were merely not to permit the defacto complainant into the matrimonial house. Where the first wife of accused Narayan Ghosh was already residing at the matrimonial house along with her child, conduct of the accused not permitting the defacto complainant to reside at the matrimonial house can be deemed to be natural. It also emerged that the defacto complainant never resided at the matrimonial house and as such, the allegation of demand of Rs. 50,000/- against the accused cannot be substantiated. The provision of section 498A of the Indian Penal Code, 1860 provides that the married woman should have been subjected to harassment 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 related to her to meet such demand. In this instant case, PW2 had gone to the house of Narayan Ghosh only once and that too, while the first wife of Narayan Ghosh was residing at the house along with her child. As such, the allegation that demand for sum of Rs. 50,000/- was made upon PW2 only appears to be an embellishment of facts only with a view to attract the provision of section 498A of Indian Penal Code, 1860 against the accused. Further, during her testimony also, PW2 has clearly stated that her allegations is only against accused Narayan Ghosh and not against other accused.

As such, in view of the above observation, we find that the allegation of the defacto complainant is only against her husband Narayan Ghosh who is since deceased. The other accused never resided with the defacto complainant and were also not in contact with her. The defacto complainant had herself gone to the house of Narayan Ghosh when Narayan Ghosh did not take her to the matrimonial house after months of residing at the rented accommodation. As such, no offense can be made out against the present accused.

Thus in view of the above discussion, I am inclined to hold that the prosecution has failed to establish the guilt of the accused making the accused entitled to be acquitted from this case.

ORDER

that the accused persons namely Dipali Ghosh, Ananda Ghosh, Bulbuli Ghosh, Bhim Ghosh, Laxman Ghosh, Jharna Ghosh, Bhorat Ghosh, Jayasri Ghosh, Jui Ghosh, Siddi Ghosh, Nokul Ghosh, Ram Ghosh and Bijay Ghosh are found not guilty under section 271(1) of the BNSS. as such they are hereby acquitted from this case for the offenses punishable under Section **498A/34** of the Indian Penal Code.

The accused persons are hereby discharged from their respective bail bonds.

Let all seized alamats, if any, be disposed off in accordance with law.

Dictated & Corrected by me.

Bibek Tamang (WB01235)
Addl. Chief Judicial magistrate,
Gangarampur at Buniadpur.
09.06.2026

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Addl. Chief Judicial Magistrate,
Gangarampur at Buniadpur.
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