

Form No (M) 34

FORM A

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, DARJEELING Present : Shri Amar Chandra Das Chief Judicial Magistrate, Darjeeling Date of the Judgment : 09th March, 2026 G.R. Case No. 232 of 2023 Reg. No. 85 of 2024 T.R. No. 44 of 2024 CNR: WBDJ020001812024 Sadar Women PS Case No. 23 of 2023 dated 14.11.2023 u/s 498A/323/325 of the Indian Penal Code	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE/APP: SHRI PANKAJ PRASAD
ACCUSED	NAME WITH ALL PARTICULARS (A1): 1. Dhiraj Agarwal, S/o Shyam Lala Agarwal, R/o D.B Giri Road, Kakjhora, Dist. Darjeeling
REPRESENTED BY	NAME OF THE ADVOCATES: Ms. Ning Doma Tamang Sri. Amishrit Gurung

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FORM B

Date of Offence	since after marriage
Date of FIR	14.11.2023
Date of Charge-sheet	30.11.2023
Date of Framing of Charges/ Plea	21.10.2024
Date of commencement of Evidence	20.02.2026
Date on which Judgment is reserved	09.03.2026
Date of the Judgment	09.03.2026
Date of the Sentencing Order, if any	N.A.

Accused details :

Rank of the Accused	Name of Accused	Date of arrest/ surrender	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.	Dhiraj Agarwal	17.11.2023	17.11.2023	u/s 498A/323 IPC	Acquitte d	NA	NA

J U D G E M E N T

On the basis of the written complaint lodged by one Anu Agarwal(Thami) the then I/C Sadar Women P.S. Darjeeling started the instant case vide no. 23 of 2023 dated 14.11.2023 u/s 498A/323/325 IPC against the accused person namely Dhiraj Agarwal. After completion of investigation, a charge-sheet was submitted by the I.O against the FIR accused person u/s 498A/323 IPC. Accordingly, after taking cognizance against the charge-sheeted accused person, the instant case was transferred to the personal file for disposal on 12.07.2024.

CASE HISTORY

The factual matrix of the prosecution case in brief is that the defacto complainant was married with the accused on 09.09.2012 but soon after her marriage the accused started both mental and physical torture and on 13.11.2023 the accused assaulted the defacto complainant with fists and blows as a result of which she sustained injury on her person. Hence this case.

CHARGE AND TRIAL

The charge-sheeted accused person namely Dhiraj Agarwal was examined u/s 240 of Cr.P.C. and the contents of the allegations u/s 498A/323 IPC was read over and explained to him and he pleaded not guilty by saying “kasur chaina” and claimed for trial. Accordingly, the prosecution was directed to produce the witnesses in order to prove the allegations.

During the course of proceedings, the prosecution could examine one witness out of total ten charge-sheeted witnesses and cross-examined in full :-

PW1Anu Agarwal(Thami) (Defacto complainant)

The prosecution adduced document in support of the prosecution case as:

Ext.P-1/PW1 FIR

Not a single document has been produced on behalf of the defence.

At the conclusion of the trial, the accused person was examined u/s 313 Cr.P.C. and his detailed answers are recorded in separate sheets and kept in the record. As the accused person declined to adduce any defence witness on his behalf, the matter was heard in argument from both sides at length.

POINTS FOR DETERMINATION

1. Whether the prosecution been able to prove the charges u/s 498A/323 IPC against the accused person?
2. Whether the prosecution been able to prove the guilt of the accused person beyond a reasonable doubt?

EVALUATION OF THE PROSECUTION EVIDENCES

The prosecution has been able to produce examine one witness the de-facto complainant out of ten charge-sheeted witnesses. The Ld. APP representing the prosecution case, claimed that the prosecution witnesses have been able to prove the case beyond the shadow of reasonable doubt and prays for conviction of the accused person facing trial.

On the other hand the Ld. Advocate for the defence side claims that the prosecution has failed to prove his case beyond the shadow of reasonable doubt and pleads for acquittal of the accused person from this case.

Both the points are taken up together for their effective determination as they are connected with each other and will assist in arriving at the just determination of this case.

Let us discuss to find out how far the prosecution has been able to prove his case against the accused person. The prosecution has been able to examine the complainant in this case in order to prove the alleged offences charged against the accused person.

Now let us discuss how far the prosecution has been able to prove the case.

PW1 Anu Agarwal stated that she was married to with her husband on 26.02.2012 as per Hindu rites and Customs. After marriage she went to her matrimonial home and started living with her husband. Out of their holy wedlock she gave birth to two children. She stated that she had lodged this case against her husband for some dispute that cropped up between them due to trivial and household issues and she proved the FIR which has been marked as **Ext P-1/PW1**. She identified the accused on the dock.

During her cross examination she stated that the matter had been settled after few days of filing of this case and she is happily living with her husband in her matrimonial house. She do not have any objection if the accused is acquitted from this case.

Therefore on scanning the materials placed before this Court in the form of oral and documentary evidence, this Court finds that although the de-facto complainant had made a serious allegation against the accused person in the written complaint but she retracted herself from uttering a single word against the accused person in her deposition, she withhold herself reasons best known to her. There is clear vast deviation from her version made in FIR and deposition made before the court which created a strong suspicion over the mind of the court regrading the actual happening of the alleged incident. Furthermore she has stated in her cross examination that she do not have any objection if the accused person is acquitted from this case.

This case clearly lacks of sufficient evidence to prove the guilt of the accused person beyond reasonable doubt for his conviction.

In view of the aforesaid evidence I hold that the prosecution has been unable to make out any case against the accused person. As a result the aforesaid points are decided against the prosecution.

CONCLUSION

After considering the entire material facts and circumstances of the case and after careful scrutiny of the evidence on record, I find that the prosecution has failed to establish the ingredients of the alleged offences charged u/s 498A/323 IPC against the accused person.

In the result, the prosecution case fails.

Hence it is,

ORDERED

that the accused person namely Dhiraj Agarwal is found not guilty to the alleged offences u/s 498A/323 IPC and as such the accused person is acquitted from this case u/s 248(1) CrPC.

Seized articles if any be disposed of as per law after the appeal period is over.

The bail bond which was filed on behalf of the accused person stands extended for a period of six months from today.

Such bail bond shall be governed by the provisions of section 437A of the Cr.P.C.

Be it mentioned that in this case the de-facto complainant, being the PW1 has a right to prefer an appeal under the proviso to section 372 of the Code of Criminal Procedure and, if necessary, to avail free legal assistance through the Legal Services Authorities concerned to prefer and prosecute such appeal.

Copies of this Judgment be forwarded to the District Magistrate, Darjeeling, and the Learned Secretary, D.L.S.A., Darjeeling, for due intimation to the victim about such right.

Note in TR and upload the judgement in the CIS at once.

Dictated and corrected by me:

(Amar Chandra Das)
Chief Judicial Magistrate,
Darjeeling.

(Amar Chandra Das)
Chief Judicial Magistrate,
Darjeeling.
UID No.WB01231

APPENDIX

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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)
PW1	Anu Agarwal(Thami)	(Defacto complainant)

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution :

Sr. No.		Description
1	Ext. P-1/PW1	FIR

B. Defence :

Sr. No.		Description
1	Exhibit D-1/DW1	
2	Exhibit D-2/DW2	

C. Court Exhibits :

Sr. No.		Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

D. Material Objects :

Sr. No.	Material Object Number	Description
1	MAT Ext.	

(AMAR CHANDRA DAS)
Chief Judicial Magistrate,
Darjeeling
JO Code WB01231