



CNR NO:-WBHW040041372024  
GR- 2750 of 2023 (Reg. 1585 of 2024)  
Trial No. 48 of 2024

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE**  
**Howrah**

**Present : GAIRIK ROY**  
**Chief Judicial Magistrate,**  
**Howrah**  
**(JO Code- WB01022)**



**Date of Delivery of Judgment:- March 23<sup>rd</sup>, 2026.**

**CNR NO:-WBHW040041372024**  
**GR- 2750 of 2023 (Reg. 1585 of 2024)**  
**Trial No. 48 of 2024**

**Arising out of Jagacha PS Case No. 98 of 2023 dated 07.06.2023 u/s.**  
**498A of the Indian Penal Code, 1860.**

<b>Complainant:</b>	State of West Bengal
<b>Represented By:</b>	<b>Shri. Taragati Ghatak , Ld. APP</b>
<b>Accused:</b>	<b>1. Sanjib Mondal and 2. Anurupa Mondal</b>
<b>Represented By:</b>	Gouri Ghosh Ld. Advocate
<b>Date of Offence</b>	Since after marriage
<b>Date of First Information Report</b>	07.06.2023
<b>Date of Charge sheet</b>	30.06.2023
<b>Date of Framing of Charge/Plea</b>	23.09.2024
<b>Date of Commencement of Evidence</b>	04.02.2025
<b>Date on which Judgment is reserved</b>	NA
<b>Date of Judgment</b>	<b>23.03.2026</b>
<b>Date of Sentencing Order, if any,</b>	NA

**Accused Details:**

Rank of Accused	Name of Accused	Date of arrest	Date of release on Bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of Section 428 CrPC
A-1	<b>Sanjib Mondal</b>	NA	23.06.2023	498A/34 of IPC	acquitted	NA	NA
A-2	<b>Anurupa Mondal</b>	NA	23.06.2023	498A/34 of IPC	acquitted	NA	NA

**List of Prosecution / Defense / Court Witness:**



**A. Prosecution Witness**

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
PW-01	Munmun Mondal	De facto complainant
PW-02	Sambhunath Roy	Other witness
PW-03	Sonali Mondal	Other witness
PW-04	Pratick Roy	Other witness
PW-05	Subrata Ganguly	Other witness

**B. Defense Witness, if any,**

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
<i>NIL</i>	<i>NIL</i>	<i>NIL</i>

**C. Court Witness, if any,**

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
<i>NIL</i>	<i>NIL</i>	<i>NIL</i>

**List of Prosecution / Defense / Court Exhibits:**

**A. Prosecution:**

Srl. No.	Exhibit Number	Description
1	<i>Exhibit- P-1(1)</i>	<i>The signature of the PW.01 on the Written Complaint</i>
2.	<i>Exhibit-P-1</i>	<i>The written complaint (as a whole)</i>

**B. Defense:**

Srl. No.	Exhibit Number	Description
<i>NIL</i>	<i>NIL</i>	<i>NIL</i>

**C. Court Exhibit:**

Srl. No.	Exhibit Number	Description
<i>NIL</i>	<i>NIL</i>	<i>NIL</i>

**D. Material Objects:**

Srl. No.	Exhibit Number	Description
<i>NIL</i>	<i>NIL</i>	<i>NIL</i>

**J U D G M E N T**

**Factual Matrix:-**



The instant case is under section **498A/34** of the Indian Penal Code. This case was initiated on the basis of FIR lodged by the defacto complainant, namely, **Munmun Mondal** with the Officer-in-charge of Jagacha police station. The allegations against the against the accused persons, above named, is that amongst them accused no.1 **Sanjib Mondal**, who happens to be the husband of the de-facto-complainant, and the rest accused person happens to be the in-laws of the defacto complainant. That the marriage was solemnized 15 years ago as per Hindu Rites and Customs. Since marriage the de facto complainant was subject to physical and mental torture by the accused persons in her matrimonial house for demand of more dowery. She was not been given proper food and clothing. The accused husband also not provided any single farthing for the livelihood of the de facto complainant and her daughter. She was also been tortured by the accused husband in a drunken condition on each and every day. Hence this FIR.

Ultimately, on receipt of the complainant Jagacha PS case No. 98 of 2023 dated 07.06.2023 u/s.498A of the Indian Penal Code, 1860 was started.

One **Raghunath Jana, A.S.I** of **Jagacha** police station investigated the matter and submitted Charge Sheet being **No.109/2023** dated **30.06.2023** U/S **498A** of the Indian Penal Code, 1860 was submitted against the aforesaid accused persons.

Later on charge was framed by this court under section **498A of Indian Penal Code, 1860** against the aforesaid accused persons and the contents of the said charge was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. Hence, the trial began as this court exercises the jurisdictional domain of the issue.

#### **Evidence Adduced:-**

To prove the prosecution case prosecution has been able to examine six witnesses arrayed in charge sheet, as follows:-

PW-01	Munmun Mondal	De facto complainant
PW-02	Sambhunath Roy	Other witness



PW-03	Sonali Mondal	Other witness
PW-04	Pratick Roy	Other witness
PW-05	Subrata Ganguly	Other witness

All the witnesses were cross examined by the defence.

**-:- Points for Consideration -:-**

After exhausting the above procedures the case was posted for hearing of arguments. On completion of arguments as per requirement of Section 354 of the Cr.P.C it is the incumbent duty of this court formulate the points for determination and assign reasons for harbouring to any conclusion on those points. After considering every possible facet in this case and considering the materials available the points for determination are arrayed as under:

a) Was the de facto complainant subjected to cruelty and tortured both mentally and physically by the accused persons as manifested by the prosecution and whether the prosecution has able to prove their case against the accused person beyond reasonable doubt?

b) Is the accused persons are guilty of the offence punishable under sections **498A Indian Penal Code, 1860?**

**-:-Decisions With Reasons:-**

Before embarking on the process of settling the rival contentions, I must hasten to articulate that; it is clenched position of law that in our criminal jurisprudence the accused always has a presumption of innocence in his favour and the rule of evidence which has received judicial sanction is; the prosecution must prove the guilt of the accused, i.e., it must establish all the ingredients of the offence with which he/she is charged. The anvil for testing and interpreting what constitutes 'prove of guilt' in a criminal trial has been formulated by the Hon'ble Apex Court. While in civil cases facts may be proved by a mere preponderance of evidence, whereas in criminal cases the prosecution must prove the charge beyond reasonable doubt.



In this case the accused persons have been charged with Section 498A of the Indian Penal Code 1860. Before drilling any deep it is absolutely necessary to recapitulate the section and the ingredients which constitute such offence. The Section runs in the following lines:-

**“S. 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 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 related to her to meet such demand.”**

The ingredients to establish offence under section 498A of Indian Penal Code, 1860 as it transpires from the bare reading of the section are as follows:-

- a) that the victim was a married lady (she may also be a widow),
- b) that she has been subjected to cruelty by her husband or the relative of her husband,
- c) that such cruelty consisted of either-



i) harassment of the woman with a view to coerce meeting a demand for dowry, or

ii) a willful conduct by the husband or the relative of her husband of such a nature as is likely to lead the lady to commit suicide or to cause grave injury to her life, limb or health.

d) that such injury aforesaid may be physical or mental.

As already pronounced in this judgment; the prosecution is vested with the indelible duty to prove beyond reasonable doubt that the accused persons have committed the offence with the requisite mens rea; and the burden of proving that; always rests on the prosecution from the beginning to the end of the trial. In this case the prosecution has been able to adduce only four witnesses. It is also axiomatic from the case record that even after taking gusto efforts appearance of all the witnesses could not be secured. It is worthwhile to mention here that this case is pending since the year 2018 and as per the mandate of Constitution speedy disposal is the fundamental right of the accused persons. This court must hoist that right and must also act in accordance with **section 309 of the Criminal Procedure Code 1973 read with Case Flow Management Rules, High Court Rules 2006** as well as the direction of the Hon'ble Supreme Court given in **Hussain and another versus Union of India, 2017[2] AICLR 362 (SC)**. Hence being pioneered by the decision of the Hon'ble Supreme Court and on basis of the above delineations I have no dichotomy to truncate or snip the evidences for the prosecution at the stage and any other view will transgress the clear verdict of law.

In this case the factum of marriage remains undisputed and rather admitted. Thus the first criteria of invoking the section has been satisfied but that is only the gate way and the prosecution cannot evade from its responsibility of proving the fact that the de-facto, complainant was subjected to mental and physical cruelty within the ambit of section 498A of the Indian Penal Code 1860.



Now, I am to analyze, assess and to take into account of the total evidence and materials on record to have a clear decision of the case.

It appears from the evidences of PW-3 to PW-5 stated nothing materials to the case and their cross-examination was declined by the defense and the the investigating officer of the case was not examined by the prosecution due to non appearance of the witness. Now the only testimony remains is of PW-01 being the defacto-complainant and PW-02 the father of the defacto-complainant.

PW-01 during her examination chief categorically stated only towards the fact matrimonial discord and torture on demand of dowry . In cross examination of PW-1 she failed to state about torture and also failed to say about any medical documents. It is crucial to note that the de-facto, complainant [P.W-1] in her cross-examination the witness has failed to give any particulars of the torture which was allegedly perpetrated on her. Invariably thus; the case of the prosecution needs to be corroborated but in this case and the PW-02 the other witness also stated nothing material to the case and the case of the prosecution garner no support from the version of the other independent witness. Neglect *per se* does qualify to be 'cruelty' be it matrimonial cruelty or legal cruelty. The fact also came out that the defacto complainant is staying with her father since long.

Thus, it is axiomatic that the P.W-1, has only deposed about neglect followed by matrimonial discord, but it is worthy to add that in ordinary petulance and discord, desertion, neglect in matrimonial life, financial deprivation cannot be said to satisfy the requirement of ingredients of offence of cruelty as defined in Section 498A of the Indian Penal Code 1860. [**Vide Neeraj Subhash Meheta vs. The State of Maharashtra, 2012 SCC OnLine Bom 62**]. By plethora of judicial pronouncements it is settled proposition of law that every harassment does not amount to 'cruelty' within the meaning of Section 498A Indian Penal Code 1860. In **Bhaskarlal Sharma vs. Monica 2009 (10) SCC 604** this aspect has been painstakingly dealt with by the Hon'ble Supreme Court and it has been held that for proving the



offence under Section 498A of the Indian Penal Code, the complainant must make allegation of harassment to the extent so as to coerce her to meet any unlawful demand of dowry, or any willful conduct on the part of the accused 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 and these allegations have to be proved by cogent evidence.

The profile of the prosecution case has been gleaned through and there is no quandary about the matter that case of the prosecution starves for materials against the accused persons. Thus, considering all the aspects and after appreciation of all the materials produced before this Court in the form of oral evidence, this Court has no other alternative but to hold that the evidence of the prosecution witnesses suffers from material lacuna insofar as against the accused persons. Under such circumstances, the benefit arising out of that lack of evidence should go in favour of the accused persons. This Court has no other alternative but to hold that there is no iota of ingredients to constitute the offence under section 498A of the Indian Penal Code. So, in this case the accused persons are not liable to be punished since the charge against them has not been proved by the prosecution. The above points under determination are therefore answered in the negative.

In the result prosecution case fails and the accused persons merit acquittal.

Hence, it is

### ORDERED

That the accused persons namely, **1. Sanjib Mondal and 2. Anurupa Mondal** all are found not guilty of committing the offences punishable U/S **498A** of Indian Penal Code, 1860 and they are hereby acquitted U/S 248(1) of Cr.P.C.

The accused persons are on Court bail. They be discharged forthwith from their respective bail bonds and be set at liberty at once.



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The case record be consigned to the DRR following the modalities of law.

The copy of order be sent to office of District Magistrate for his information and necessary with regard to the right of appeal of de-facto complainant/victim through DLSA.

**Typed by me;**

**Chief Judicial Magistrate  
Howrah**

**Chief Judicial Magistrate  
Howrah**