

In the Court of the Additional Sessions Judge, 2nd Court, Contai within District Purba Mednipur.

Present- Suvadip Chowdhury,
Additional Sessions Judge,
2nd Court, Contai
Purba Mednipur.
JUD ID Code : WB00840

Sessions Trial No. 399/23
Sessions Case No. 486/22
CNR No WBEM 09-002427-2022

Arising out of Talpatighat Coastal PS Case No. 36 of 2022 dated: 25-04-2022.
Charges u/s 498A, 307 and 506/34 of the I.P.C.

Dated Contai, the 18th day of April, 2024

State

- Vs -

Nadu Patra,
Manaranjan Patra and
Rumpa Patra.....3-three accused persons.

[Underlined : Emphasis given; Highlighted/bold : Stress given]

[Abbreviations used : 'P.O' for Place of Occurrence; 'P.S' for Police Station; 'u/s' for under section; 'IPC' for Indian Penal Code; 'FIR' for First Information Report; 'P.O' as Place of Occurrence; 'Ext' as Exhibit; 'P.W' as Prosecution witness;]

J U D G E M E N T

1. The written complainant of this case was filed by one Krishna Das Patra on the basis of which the Talpatighat Coastal PS Case No. 36 of 2022 dated 25-04-2022 was registered. The complaint was against her husband and her in-laws named in the FIR.

2. If one goes through the contents of the written complaint that was filed before the Officer-in-charge of the Police Station, one would be able to find out the nature of the allegations in particular that was raised against the accused persons.

The moot allegation that was raised in the written complaint was that, *"the de-facto complainant, Smt Krishna Das Patra had got married with the accused Nadu Patra according to the Hindu Rites and Customs about 8 years back. She remained well for a few days at her matrimonial home and she had also given birth to two children in the*

wedlock. But after a few days of her marriage, her husband started to ill treat her and most of the time he used to return back to his house in a drunken state and used to abuse and insult the complainant. He used to work in the fishery and most of the time he used to return home and used to spend time with the accused no 3 named in the complaint. He used to drink and abuse the complainant in different ways. When the complainant used to call him back, he used to refuse her by saying different things. The de-facto complainant tried hard to adjust with the situation in the hope of a better future. But on 07.04.22 when she called back her husband to home, he returned but physically assaulted the complainant with an iron rod and also by fists and blows for which she got injured and had to be treated. On the said day the husband with the active connivance and involvement of the other accused persons, together have assaulted her mercilessly and even tried to end the life of the complainant for ever so that she cannot impart her matrimonial life”.

3. Thus the FIR maker have filed the written complaint and requested the police to enter into an investigation and bring the perpetrators of the crime to justice. The formal FIR was thus registered against all the named accused persons and the investigation was proceeded.

4. After the police entered into the investigation and after conclusion of the same, the police have filed the charge sheet against all the FIR named accused persons. Be it noted that, during the continuance of this proceeding, one accused person namely Smt Niroda Patra died and thus the matter was filed for ever against her.

5. On the basis of charge sheet the Ld. Magistrate took cognizance of the offences against the aforesaid accused persons and since some of the alleged offence u/s 307 of the I.P.C was exclusively triable by the Ld Court of Sessions the matter was committed to Ld. Court of Sessions and subsequently it was transferred to this court for trial and disposal.

Thereafter, after hearing both the sides and after perusing the materials and the charge sheet, this court found prima facie materials against the three-3 accused persons to frame charges u/s 498A, 307 and 506 all read with section 34 of the IPC for which the contents of the allegations were reduced to writing in a separate formal charge form and it was read over and explained to the accused persons in considerable details.

The accused persons have pleaded not guilty and claimed to be tried under the law and hence the trial of this case was initiated.

Thus the accused persons were put to trial by this court.

TRIAL OF THE CASE

6. In order to prove the guilt of the accused persons in this case, the prosecution side have produced in total 6-six witnesses including the de-facto complainant of the case. The prosecution did not adduce the evidences of any other witnesses.

7. During the course of the trial :

a) Krishna Das Patra, the de-facto complainant have deposed as **PW1**. During her examination in chief the written complaint was marked as **Ext-1**.

She was cross examined in full and discharged.

b) Prabir Patra, deposed as **P.W-2** and his cross examination was done and he was discharged as a witness.

c) Sumati Das, the mother of the de-facto complainant have deposed as **P.W. 3** and after her cross examination she was discharged.

d) One Ganapati Das, the father of the de-facto complainant have deposed as **P.W-4** and his cross examination was done and he was discharged as a witness.

e) Joydeb Patra, one co-villager, deposed as **P.W-5** but his cross examination was declined and he was discharged as a witness.

f) Mahima Patra, another co-villager, deposed as **P.W-6** but her cross examination was also declined and she was discharged as a witness.

8. At this point in time the prosecution have prayed for the closure of the prosecution witnesses. The court on perusal of the entire matter in this case, allowed the prayer of the prosecution and closed all evidences.

After the conclusion of the trial the accused persons were duly examined u/s 313 of Cr.PC and on being asked they denied all the allegations. However, they also declined to adduce any evidence on their behalf.

Questions that are to be determined in this case

9. From the entire materials in record the following questions are to be determined by this court :-

1. Whether the prosecution have been able to prove the guilt of the accused persons beyond all reasonable doubt or not ?

2. If yes, what should be the adequate punishment to be inflicted upon the accused persons in this case and/or against whom ?

DECISION WITH REASONS

10. Both the questions for determination are taken up together for discussion and for brevity.

Argument in this case have been heard from both the sides and was closed. It is now taken up for passing the judgment.

11. The Ld. Prosecution have pointed out to the portions of examinations in chief of the witness who was the de-facto complainant in particular. He draws the attention of this court to the evidences and submits that the complainant have talked about dispute and differences with her husband and the in-laws in her matrimonial house but neither the de-facto complainant nor any of her parents have been able to stand the test of trial in this case and thus this court may pass the judgment as it deem fit and proper.

On the other hand the Ld Advocate for the accused persons have argued that none of the witnesses of the prosecution have been able to stand the test of trial. Moreover he submits that the witnesses have not been able to portray before this court that any of the named and or charge sheeted accused persons were guilty of committing the alleged crime. He submits that the accused persons should be acquitted from the charges in this case.

Thus he prays for the acquittal of all the accused persons.

12. In these premise, it is seen that the moot allegations in this case were very specific in the written complaint. The allegations were that after the marriage of the lady de-facto complainant, she went to her matrimonial house and started to live with the husband and the in-laws but she was tortured by the husband first and then on a particular date she was beaten up not only by the husband but also in consonance with the other accused persons she was beaten up with an iron rod and by fists and blows. She got injured and had to be treated. They tried to end the life of the lady.

What was the reason for the said overt acts which have allegedly been committed by the accused is the question.

On a careful reading of the moot allegations one would find that the accused-husband used to come back to his home in an intoxicated

condition and he used to spend all his time with the accused no 3 named in the complaint. He even used to abuse and insult the wife as she used to call him back. On a particular date when she called him back to his home, he came back and assaulted his wife with an iron rod and on the night of the said date she was subjected to inhuman torture at the house by the husband and the other accused persons.

In these context the police have investigated the allegations and have filed the charge sheet against all the four accused persons but one have already died.

Now based on these allegations, the prosecution has to prove the guilt of the accused persons beyond all reasonable doubt, else the matter is destined to fall.

13. Now when the entire evidences adduced by the prosecution witnesses are read as a whole, one would be able to find out, the real impact of the evidences of the P.W-1 to 6. They are to be read together and scrutinized for the purpose of a just decision in this case.

14. Now when the evidence of the P.W-1, the de-facto complainant is looked into, one would find that the witness have stated before the court that she had lodged the complaint and she also stated that she was treated at the hospital. But she did not describe the manner in which she was subjected to torture by any of the accused persons. She also did not describe in material particulars as to how and when the lady was subjected to torture as alleged.

She stated that she was married about 11 years ago and she had given birth to two children and one was 10 years old and the other was 4 years old. Now she went on to state that due to the family dispute amongst her and the husband and the in-laws she had filed this case. Due to the dispute and discrepancies she had filed this case. She did not describe the manner and nature of the assault for the only reason that she was living peacefully with the husband and the in-laws. When she was cross examined in details she stated that she was not able to recollect the contents of her allegations. Though she denied the suggestions that there was no such dispute and there was no act of physical assault yet she did not substantiate her allegations in material particulars. On further scrutiny it is found that since she was living peacefully in her matrimonial house she must have refrained herself from making any specific allegation against any of the accused persons as such.

15. Now, from the evidence of the parents of the de-facto complainant who deposed as P.W- 3 and 4 it is seen that both of them have stated that they have heard about a dispute but they do not know about the nature of the same. They did not corroborate the allegations specifically and did not make out a case against any of the accused persons.

16. From the evidences of PW-2, one would find that this witness was one of the neighbours who knew the de-facto complainant, and the accused persons. He stated that there may have been a dispute but he did not utter anything about the nature of the dispute and on the contrary he stated that the lady is living peacefully with her husband in her matrimonial house.

The evidence of the P.W-5 and P.W-6 were no different and it is seen that these witnesses of the locality were totally ignorant about the present case or why it was filed.

In these circumstances, this court has got no other alternative but to consider that the prosecution have failed to prove the allegations against any of the accused persons of this case.

It is worthwhile to further mention that any evidence of the I.O if recorded at all, would have been rendered as futile, and it would have also amounted to only an abuse of the process of the court and would complement the delay of the trial and also would have been a sheer waste of time.

17. In such circumstances, the prosecution have failed to prove the guilt of any of the accused persons in this case.

Both the questions are thus decided against the prosecution side.

Thus without a decree of doubt, this court is of the opinion/decision that the accused persons should be acquitted from this case.

18. Hence, it is

ORDERED

that three-3 accused persons namely- **Nadu Patra, Manaranjan Patra and Rumpa Patra** are found not guilty to the charges punishable u/s **498A, 307 and 506** and all read with section 34 of the IPC and thus they are hereby acquitted from this case under section 235(1) of Cr.P.C.

The accused persons are discharged from the bail bonds.

Sureties be also discharged.

Let them be set free at once.

There are no seized 'alamat's' in this case.

Let another copy of this judgment be sent to the Secretary, DLSA Tamluk and SDLSA Contai, Purba Mednipur, in view of the requirement of compliance with the direction of the Hon'ble High Court, Calcutta passed in Sabitri Bhunya vs State of West Bengal and another dated 29.03.22 and the Secretary DLSA is requested to act accordingly.

Let the provision of section 365 of Cr.P.C be complied with and a copy of this judgment be sent to the DM concerned for his information.

Let the Judgment and order be uploaded in the CIS of this court.

B.C I to comply at once and report.

D/C by me,

Addl. Sessions Judge ,
2nd Court, Contai,
Purba Mednipur.

ADJ – 2nd Court, Contai,
Purba Mednipur.
18.04.24