

THE COURT OF THE ADDITIONAL SESSIONS JUDGE, 1ST COURT,
BERHAMPORE, MURSHIDABAD

PRESENT: NILANJANA CHATTERJEE (WB00811)

SESSIONS TRIAL 12(11)2017

: **S.SL. No. 37 of 2017**

STATE OF WEST BENGAL -VS- JIARUL SK.

Order NO. 36 dated 04.06.2026

Today is fixed for evidence.

The sole accused person on CB is present by filing hazira.

The prosecution is present with three witnesses. The complainant/ v.g is examined as PW-1, her mother Sahanur Bibi as PW-2 and her father Kanu Sk. as PW-3. All three witnesses are cross-examined in full and discharged.

All three material witnesses have been examined and cross-examined.

Considering the material that has surfaced after examining the most vital witnesses and also considering the fact that the case is pending since 2011, it would be in the interest of the justice that the matter be disposed of today.

Heard the Ld. P.P-in charge who submits that further examination of witnesses would be waste of time. Heard the Ld. Advocate for the defence as well.

A complaint initiated under S. 156(3) Cr.P.C filed on 19.11.2011 before the Ld. C.J.M., Murshidabad paved way to Nowda P.S Case no. 251 dated 05.08.2011 u/s 376/417 I.P.C. The complainant had alleged that she got married to the accused Jiyarul Sk. on 03.06.2011 but marital dispute arose soon after marriage. On 01.07.2011, the accused told the complainant that he did not want to give her any....

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distress and he would affirm an affidavit to that extent. The accused brought the complainant to Berhampore court and made her sign certain papers. The complainant, in good faith, signed those papers. The accused then brought her back to her paternal home assuring her that he would take her back after a few days. On 09.07.2011 the accused forcibly had sexual intercourse with her and later in presence of few others declared that he had divorced / 'talaque' the complainant.

Following this complaint, the investigation commenced and the police submitted charge sheet against the accused person for committing offence u/ss 417/376 I.P.C.

Cognizance was taken and since the offence under S. 376 is exclusively triable by the Court of Session, the case was committed to the Ld. Sessions Judge who transferred this case to this court for disposal.

The accused appeared before this court and pleaded not guilty to the charge u/s 376 I.P.C.

Accordingly, trial commenced.

The prosecution examined in total three witness. The complainant is the PW-1 , her mother the PW-2 and her father is PW-3.

The PW-1 stated that she was married to the accused following a love affair but the accused divorced her. She wanted to return to the.....

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accused but since he refused, she filed the complaint out of rage and grudge. The cross-examination of the PW-1 revealed that the PW-1/complainant has married again and has children from her second marriage.

PW-2 reiterated the oral testimony of the PW-1 and so did the PW-3.

The accused has been charged for committing rape upon his divorced wife. It is for the prosecution to prove this charge beyond all reasonable doubts. The prosecution was armed with three vital witnesses; the complainant who is supposedly the victim, her mother and father. These were the most material witnesses but none of these witnesses stated anything at all to substantiate the charge of rape. In fact, it is apparently clear that the complaint was an outcome of wrath of a divorced wife. The parties here are followers of Islam and the laws of marriage and divorce are guided by their personal law or *shariayat*. The complainant had other forums to contest the validity of the talaque but filing a criminal complaint to satisfy one's wrath was unbecoming of the complainant.

Since the most material witnesses did not support the prosecution case, examination of the other witnesses listed in the charge sheet would fail to inculcate life in the prosecution case.

Thus, in a nutshell, the principal witnesses for the prosecution did not support the prosecution case. Accordingly, the prosecution case shall fail.

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Hence, it is

ORDERED

The accused person namely Jiyarul Sk. is hereby found not guilty of the offence charged against him and is acquitted under Section 232 Cr.P.C. The accused person be set at liberty at once. The bail bond, however, shall remain operative for six months from the date of this judgment in view of the provisions of Section 437A of the Code of Criminal Procedure.

Typed by me:

(NILANJANA CHATTERJEE)

Additional Sessions Judge,
1st Court, Berhampore

(NILANJANA CHATTERJEE)

Additional Sessions Judge
1st Court, Berhampore

(WB00811)

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