

WBMD040018222026



In the Court of Ld. Judicial Magistrate, 1st Court, Berhampore,
Murshidabad.

Present-Najmus Sahar
JO Code-WB01355

Date of Delivery of Judgment:- 18th day of May, 2026

G.R. Case No. 2917/25

T.R. No. 386/26

C.I.S. No. GR-A-487-2026

CNR No. WBMD040018222026

Arising out of Domkal PS case No. 404/25 dated 10.05.2025 under
section 85(2)/3(5) B.N.S r/w section 3/4 D.P. Act.

Complainant:	State of West Bengal
Represented By:	Shri. Siddhartha Gupta Ld. APP
Accused:	1. Toufik Sk @ Manik @ Tofik Sk 2. Sahabuddin Sk 3. Nurechha Bibi @ Nurunnesa Bibi 4. Hriday @ Tonik @ Hedayet Sk
Represented By:	Juel Rana, Ld. Advocate

Date of Offence	Since after marriage
Date of First Information Report	10.05.2025
Date of Charge sheet	18.05.2025
Date of Framing of Charge/Plea	18.05.2025
Date of Commencement of Evidence	18.05.2025
Date on which Judgment is reserved	NA
Date of Judgment	18.05.2026
Date of Sentencing Order, if any,	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	1. Toufik Sk @	NA	13.05.2025	85/(2)/3(5) BNS	acquitted	NA	NA

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A-2 A-3 A-4	Manik @ Tofik Sk 2. Sahabuddin Sk 3. Nurechha Bibi @ Nurunnesa Bibi 4. Hriday @ Tonik @ Hedayet Sk			r/w 3/4 D.P. Act			
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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	Sarala Khatun	De facto complainant

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.	Exhibit – P-1/P.W.-1	<i>The signatures of P.W.-1 on the written complaint</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
NIL	NIL	NIL

J U D G M E N T

Factual Matrix:-

The instant case is under section **85/(2)/3(5) BNS r/w section 3/4 D.P. Act** was initiated under **Domkal PS**.

The allegations against the accused person who happens to be the husband and other in-laws, of the de-facto-complainant.

It is stated by the de-facto complainant that since after her marriage she was tortured both physically and mentally over the issue of more dowry demand. Lastly, on 14.04.2025 at about 21:00 a.m in the morning the above named accused persons assaulted the de-facto complainant by fist and blow and driven her out from her matrimonial house over the issue of same issue of demanding Rs. 50,000/- from the father of the complainant. Hence this case.

After completion of investigation police submitted charge sheet against the accused persons under sections- **85/(2)/3(5) BNS r/w section 3/4 D.P. Act** and and charge was framed u/s **85/(2)/3(5) BNS r/w section 3/4 D.P. Act** after perusal of the materials in CD and CR.

At the trial the State examined prosecution witnesses already mentioned above.

The accused persons were examined u/s 313 of Cr.pc and they pleaded their innocence.

:- Points for Consideration :-

After exhausting the above procedures the case was posted for hearing of arguments. 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 persons beyond reasonable doubt?



b) Is the accused persons are guilty of the offence punishable under sections **85/(2)/3(5) BNS r/w section 3/4 D.P. Act?**

Decisions With Reasons

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.

From the testimony of P.W.1 being the de facto complainant of this case, it appears that although she has identified the accused persons on dock but categorically stated that there was a matrimonial dispute following with a trivial issue with the accused persons so she had filed the instant case against them. But during cross examination she has stated that she does not know the content of the FIR and also admitted that at present she is not willing to continue with this case as the matter has already been amicably settled between them out of the Court and she has no allegation against the accused persons.

In the case of Manjura Kalita Vs State of Assam, 2009 the Supreme Court held that for holding an accused guilty u/s 498A of IPC it has to be established that the woman has been subjected to cruelty continuously/persistently or at least in close proximity of time to the lodging of the complain and the quarrels cannot be termed as cruelty within the provision of 498A. In the case of B.S Joshi Vs State of Hariyana that taking a hyper-technical view of the section is cautioned that being said, the increasing misuse of section to settle personal scores also warrants due attention. Court must carefully decided whether a case of cruelty is substantiatial enough and enough evidence to necessitate prosecution or not.

In fact, the prosecution has failed to bring home any iota of evidence that after the marriage, the accused persons tortured the complainant, whereby the prosecution fails to constitute the offences including the ingredients of such offences as demanded by Indian Penal Code.

All the points are thus answered in the negative.

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

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Hence, it is

ORDERED

That the accused persons namely, **1. Toufik Sk @ Manik @ Tofik Sk 2. Sahabuddin Sk 3. Nurechha Bibi @ Nurunnesa Bibi 4. Hriday @ Tonik @ Hedayet Sk** are found not guilty of committing the offences punishable under section **85/(2)/3(5) BNS r/w section 3/4 D.P. Act**, and they are hereby acquitted under section 271(1) of B.N.S.S.

The accused persons are present. They are discharged forthwith from his bail bonds and be set at liberty subject to the provision of section 437A of Cr.P.C from their respective bail bonds.

Seized alamat, if any, be disposed of in accordance with law after appeal period, if preferred.

Note in the relevant register.

Update in CIS accordingly.

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 action with regard to the right of appeal of de-facto complainant/victim through DLSA, Murshidabad.

Typed and corrected by me;

(Najmus Sahar)
Judicial Magistrate 1st Court
Berhampore, Murshidabad

(Najmus Sahar)
Judicial Magistrate 1st Court
Berhampore, Murshidabad