

WBMD040030312025



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

Present-Najmus Sahar
JO Code-WB01355

Date of Delivery of Judgment:- 28th day of April, 2026

G.R. Case No. 1236/25
T.R. No. 362/26
C.I.S. No. GR-A-326/2026
CNR No. WBMD040030312025

Arising out of Nowda PS case No. 49/25, dated 03.03.2025 under section 85/118(2)/3(5) BNS.

Form A

Complainant:	State of West Bengal
Represented By:	Shri. Siddhartha Gupta Ld. APP
Accused:	1. Foring Sk 2. Hossain Sk 3. Ajim Sk 4. Saila Bibi and 5. Soniya Khatun
Represented By:	Subhankar Saha, the Ld. Advocate

Date of Offence	Since after marriage
Date of First Information Report	03.03.2025
Date of Charge sheet	31.03.2025
Date of Framing of Charge/Plea	27.04.2026
Date of Commencement of Evidence	27.04.2026
Date on which Judgment is reserved	NA
Date of Judgment	28.04.2026
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	Sentence imposed	Period of detention undergone
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WBMD040030312025



					convicted		during trial for the purpose of Section 428 CrPC
A-1 A-2 A-3 A-4 A-5	1. Foring Sk 2. Hossain Sk 3. Ajim Sk 4. Saila Bibi and 5. Soniya Khatun	NA	23.05.2025 A-1 07.03.2025 Rest A-2 to A-5	85/118(2)/3(5) BNS.	acquitted	NA	NA

Form-B

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	Jahinur Khatun	The 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>

Form C

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
<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 **85/118(2)/3(5) BNS**. This case was initiated on the basis of FIR lodged by the Officer-in Charge of Nowda **PS**.

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

It is stated by the de-facto complainant that after marriage, the accused persons being the husband and other in-laws member of the de-facto complainant used to torture her both physically & mentally at her matrimonial house over the issue of various family matter. Lastly, on 02.03.2025 at about 19:00 hours her husband assaulted her with fist and blows and driven her out from her matrimonial home. Hence this case.

After completion of investigation police submitted charge sheet against the accused persons under sections- **85/118(2)3(5) BNS**, and and charge was framed u/s **85/118(2)3(5) BNS**, 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.

The witness was cross examined by the defence. The signature of the de-facto complinant on the written complaint is marked as **Exhibit-P-1/PW-1** on behalf of the prosecution.



-:- 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 **85/118(2)/3(5) BNS?**

Decisions With Reasons

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 since the time of her marriage with the accused persons so out of anger and misunderstanding she had filed the instant case against them. As of now, 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 and also stated that now they are not residing together and not willing to continue with this case as the matter has already been amicably settled between them out of the Court.

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 substantiated enough and enough evidence to necessitate prosecution or not.



The Hon'ble Apex Court ruled that continuous and grave cruelty must be proven to sustain a charge under Section 498A. Petty quarrels and minor disagreements do not constitute cruelty under this section. Key Points: Cruelty must be of such nature that it drives the woman to commit suicide or cause grave injury.

It is the prosecution in whose presence and instance the evidence was closed. There is no evidence apart from the PW1 on record and the court has no option but to rely upon the testimony of PW1.

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.

Hence, it is

O R D E R E D

That the accused persons namely, **1. Foring Sk 2. Hossain Sk 3. Ajim Sk 4. Saila Bibi and 5. Soniya Khatun** are found not guilty of committing the offences punishable under section **85/118(2)3(5) of BNS**, and they are hereby acquitted under section 271(1) of B.N.S.S.

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

Seized alat, 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.

WBMD040030312025



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