



FORM No. (M) 34

Form A

<u>IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, RANAGHAT, NADIA.</u> Present: Shri Soumyajit Bhattacharjee (W.B.J.S), A.C.J.M, Ranaghat, Nadia. J.O CODE:- WB01126 [Date of the Judgment: 23rd Day of June, 2026 (Tuesday)] <u>Case No.</u> G.R Case No. 78 of 2017 T.R No. 137 of 2018 <u>(C.I.S Regn. No: G.R Case No: 32278 of 2017)</u> <u>(C.N.R NO:WBND13-002829-2017)</u> (Details of FIR/Crime and Police Station: Taherpur P.S Case no. 11/2017, Dt. 09-01-2017 U/Sec 406/34 of the Indian Penal Code here-in-after referred to as “I.P.C”.)	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Sri. Pradip Pramanik, Ld. A.P.P
ACCUSED	1. <u>Gopal Chandra Pal (A1)</u>, S/O Anil Chandra Pal, of Vill:- Bedibhaban Ananda Pally, Khoshalpur, P.S- Kalyani, District:- Nadia. 2. <u>Anil Chandra Pal (A2)</u>, S/O Late Roy Mohon Pal, of Vill:- Do-. 3. <u>Parthana @ Pampa Chowdhury (A3)</u>, W/O Subrata Chowdhury, of Vill:- Do-. 4. <u>Subrata Chowdhury (A4)</u>, S/O Late Sridam Chowdhury, of Vill:- Do-. 5. <u>Santi Sen (A5)</u>, S/O Late Brojobasi Sen, of Vill:- Taherpur, Nadia. <u>[Filed for ever vide Order dt: 05-06-2026]</u>
REPRESENTED BY	Mr. Basudeb Mukhopadhyay, Ld. Defence Counsel.

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Form B

Date of Offence	After the marriage of the complainant and on 03-05-2015.
Date of FIR	09-01-2017
Date of Chargesheet	31-01-2017
Date of framing of Charges	14-12-2018
Date of Commencement of Evidence	01-03-2022
Date on which Judgment is reserved	DOES NOT ARISE
Date of the Judgment	23 rd day of June, 2026.
Date of the Sentencing Order, if any	DOES NOT ARISE.

Accused Details

Rank of the Accused	Name of the Accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of section 428, Cr.P.C
A1.	Gopal Chandra Pal	Not arrested ; since surrendered before this Court.	04-02-2017; released on bail from this Court.	406/34 of the I.P.C.	Acquitted	N.A	NIL
A2.	Anil Chandra Pal	- Do-	13-01-2017; released on bail from this Court.	- Do-	- Do-	- Do-	- Do-
A3.	Parthana @ Pampa Chowdhury	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-

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A4.	Subrata Chowdhury	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-
A5.	Santi Sen [Filed for ever vide Order dt: 05-06-2026]	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-

FORM No. (M) 36

Form C

LISTS OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. Prosecution

Rank	Name	Nature of Evidence (Eye-witness, police witness, expert witness, medical witness, panch witness, other witness)
P.W 1	Iti Pal	Complainant
P.W 2	Narayan Ch. Pal	Father of the complainant.
P.W 3	Arun Kumar Ghosh	Seizure Witness.
P.W 4	Biplab Dutta	Witness.
P.W 5	A.S.I Asis Das	Investigating Officer.

B. Defence Witnesses:- No witness in support of defence has been produced.

Rank	Name	Nature of Evidence (Eye-witness, police witness, expert witness, medical witness, panch witness, other witness)
D.W 1	N/A	-
D.W 2	N/A	-
D.W 3	N/A	-

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C. Court Witnesses:- No Court witness has been summoned.

Rank	Name	Nature of Evidence (Eye-witness, police witness, expert witness, medical witness, panch witness, other witness)
C.W 1	N/A	-
C.W 2	N/A	-
C.W 3	N/A	-

LIST OF PROSECUTION/ DEFENCE /COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit No.	Description
1.	Exhibit 1 (Collectively)/P.W 1.	Court Complaint u/s- 156 (3) of Cr.P.C along with the signatures of the complainant.
2.	Exhibit 2/P.W 1	Signature of the complainant on the seizure list.
3.	Exhibit 2/1/ P.W 2	Signature of P.W2 on the seizure list.
4.	Exhibit 2/2/ P.W 3	Signature of P.W3 on the seizure list.
5.	Exhibit 3/ P.W5	Formal FIR
6.	Exhibit 1/1/P.W 5	The receiving note of ASI Malay Kumar Saha on the typed complaint.
7.	Exhibit 3/1/P.W5	Endorsement of S.I Siddhartha Roy on the formal FIR.
8.	Exhibit 4/ P.W5	Rough Sketch Map
9.	Exhibit 4/1/P.W5	Index of the P.O.
10.	Exhibit 2/3/P.W 5	Seizure List.
11.	Exhibit 5 (Collectively)/P.W 5	Notices issued u/s- 41A of Cr.P.C.

B. Defence:- No defence document has been marked as Exhibit.

Sr. No.	Exhibit No.	Description
1.	N/A	-
2.	N/A	-

C. Court Exhibits:- No document has been marked as Exhibit by Court.

Sr. No.	Exhibit No.	Description
1.	N/A	-
2.	N/A	-

D. Material Object:- No material object has been produced as evidence.

Sr. No.	Exhibit No.	Description
1.	N/A	-
2.	N/A	-

J U D G M E N T

1. It is not out of place to mention here that the golden thread in adversarial form of the criminal justice system is the latin maxim “**item quilbet presumitur innocens nisi probetur nocens**”, that is the presumption of innocence of the accused which implies--that every person is presumed to be innocent unless proven guilty. This idea was first popularized and the phrase, “innocent unless proven guilty”, was coined by English Barrister, Sir William Garrow. In the criminal trial, the degree of proof is stricter than what is required in a civil proceedings. In a criminal trial however intriguing may be facts and circumstances of the case, the charges made against the

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accused must be proved beyond all reasonable doubts and the requirement of proof cannot lie in the realm of surmise and conjectures. Although the Court's conscience must be satisfied that the accused is not held guilty when there are reasonable doubts about the complicity of the accused in respect of the offences alleged, it should be borne in mind that there is no absolute standard of proof in a criminal trial and the question whether the charges made against the accused have been proved beyond the shadow of all reasonable doubts must depend upon the facts and circumstances of the case and the quality of the evidences adduced in the case and the materials place on record.

Prosecution case in laconic:-

2. Facts as canvassed and projected by the prosecution in epitome are that on 09-01-2017 one Court complaint vide Ranaghat Court FIR No.986/16 dt: 22-12-2016 was lodged by one Iti Pal W/O Gopal Chandra Pal D/O Narayan Ch. Pal of Kalinarayanpur, Taherpur, Nadia against the above-named accused persons to the effect that on 14-07-2013 after the marriage of the complainant with Gopal Chandra Pal (A-1) as per Hindu rites and customs with sufficient dowry, she was subjected to torture. The complainant started residing at her matrimonial house with the stridhan articles, but due to the persistent torture upon her she was driven out from her matrimonial home by the accused persons, withholding the stridhan articles and the complainant has been apprehending that the accused persons are mis-appropriating those stridhan articles.

The F.I.R:-

3. On the basis of such Court complaint which was subsequently treated as FIR, Taherpur P.S case no. 11/2017, U/Sec 406/34 of the I.P.C was initiated on 09-01-

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2017 against the aforesaid accused persons.

Investigation by Police:-

4. A.S.I, Asis Das of Taherpur P.S was entrusted to carry out the investigation of the alleged incident. The said investigating Officer (here-in-after referred to as “I.O”) of this case started the investigation and after completion of the same, the said I.O submitted the Charge-sheet being No: 07/2017 U/Sec 406/34 of I.P.C against the aforesaid accused persons on 31-01-2017 and the instant case record was kept under the personal file of this Court for trial and disposal.

Framing of Charge:-

5. Accordingly, the charge was framed on 14-12-2018 against the above-named accused persons u/s-406/34 of the I.P.C. During framing of charge, the accused persons pleaded not guilty and claimed to be tried when the contents of the charge was read over and explained to them. The case thus entered into trial.

Evidences adduced from the prosecution side:-

6. During the course of trial, the prosecution had adduced the complainant (Iti Pal) as P.W 1, the father of the complainant (Narayan Ch. Pal) as P.W 2, the seizure witness (Arun Kumar Ghosh) as P.W 3, the independent witness (Biplab Dutta) as P.W 4 and the investigating Officer (A.S.I, Asis Das) as P.W 5 respectively. In addition to the above oral testimonies, the court complaint, the formal FIR, the receiving note and endorsement on the complaint and FIR, the seizure list and signature of the seizure witnesses, the rough sketch map and the index of the P.O and the notices issued u/s-41-A of Cr.P.C were produced as documentary evidences and marked as Exhibits from the prosecution side, as mentioned earlier in details.

Examination of the accused persons u/s- 313 of Cr.P.C:-

7. In a criminal trial, the purpose of examining the accused persons u/s- 313 of Cr.P.C is to meet the requirement of the principle of natural justice i.e. “audi alteram partem”. In other words, it provides an opportunity to an accused to state before the Court as to what is truth and what is his defence, in accordance with law. This is the particular stage of criminal trial, where for the very first time the accused gets an opportunity to have a face-to-face and direct conversation with the Court. While observing with this statutory mandate, by examining the accused persons u/s-313 of the Cr.P.C, it appears before the Court that there is no specific defence case of the accused persons and they had pleaded their innocence and refuse to adduce any evidence from their part.

Defence Case:-

8. The defence case as it appears from the trend of cross-examination of the witnesses and examination of accused persons u/s- 313 of Cr.P.C is of absolute denial of allegation and plea of innocence.

Argument made by the Ld. Prosecution:-

9. During the course of argument, Ld. A.P.P argued that the complainant (P.W 1) and her father (P.W 2) have been able to substantiate and corroborate the prosecution case brought against the accused and the ingredients of the alleged offence have also been proved. Lastly, the Ld. A.P.P submits that this is a fit case for conviction, since the charge against the accused persons has been proved beyond all reasonable doubts and rests the case upon the wisdom and the sense of judgment of this Court.

Argument made by the Ld. Defence Counsel:-

10. On the contrary, Ld. Defence Counsel during his argument highlighted that there are several latches in the prosecution cases for which the guilt of the accused persons

cannot be proved beyond all reasonable doubt and also added that the prosecution has utterly failed to prove its case for non-producing any convincing evidence against the accused persons and as such they deserve acquittal from this case.

11. Points for consideration:-

(a) Whether the prosecution has been able to prove its case against the above-named accused persons i.e “A1 to A5” under Section- 406/34 of I.P.C, beyond the shadow of all reasonable doubts ?

(b) If the accused persons are held guilty, then what would be the quantum of punishment in this case?

DECISION WITH REASONS

12. Since, both the points are so intricately interwoven with each other that to discuss each of them separately will entail repetition of similar facts and evidence, hence both the points are taken up together for the sake of brevity and convenience of discussion after juxtaposing them both in law and in fact so as to unravel them and also for delineation and analysis for coming to a reasonable culmination.

Lex loci & burden of proof:-

13. According to Section 101 of Indian Evidence Act,1872, the general burden of proof is always upon the shoulder of the prosecution. **The Hon’ble High Court of Delhi in Sunil Kr. Sharma – Vs- State (CBI) 139 (2007) DLT 407, 1 (2007) BMC 654**, was pleased to observe that there are three well settled cardinal principles of criminal jurisprudence and they are as follows:-

(i) That the onus lies affirmatively on the prosecution from the beginning to the end to prove its case to prove its case beyond reasonable shadow of doubt and it cannot

derive benefit from weakness of the defence version while proving its own case.

(ii) That in criminal trial the accused must be presumed to be innocent unless his guilt is proved.

(iii) That the onus of the prosecution to prove its own case never shifts upon the shoulder of the accused persons. In an encapsulated manner, it can be said that the duty is always upon the prosecution to bring home the charges comprehensively, failing which the accused gets acquittal.

In several landmarks cases, it has been observed by the Hon'ble Supreme Court that, "If upon the evidence adduced in the case whether by the prosecution or by the accused, a reasonable doubt is created in the mind of the Court as regards one or more of the ingredients of the offence including mens-rea of the accused, he would be entitled to be acquitted." In a nutshell it can be said that unless the guilt is proved, the accused has the presumption of innocence in his favour as the prosecution has to establish the allegation and prove the guilt by corroborating the same with the help of supporting oral and other evidences.

Findings of this Court after evidence scanning:-

14. The prosecution evidence must overcome the presumption of innocence of the accused. The concept of "innocent unless proven guilty", depends on a famous latin maxim, "Ei incumbit, probatio qui dicit, non qui negat.", means, "the burden of proof is on he who asserts, not on he who denies". Pertinent to mention here that "Presumption of innocence" serves to emphasize that the prosecution has the obligation to prove each element of the offence beyond all reasonable doubts and that the accused bears no burden of proof. Now, time has come to categorically examine the evidence-on-record in order to visualise how far the prosecution has

been able to overcome the presumption of innocence theory in favour of the accused persons and as to how well the prosecution has been able to discharge its bounden duty of bringing home the guilt of the accused persons in this case. Having a vigilant and cautious scrutiny of the evidences as available on record, the following vital loopholes of the prosecution case have been observed by this Court, which are highlighted here-in-below in details:-

I. On careful scrutiny of the cross-examination of P.W1, it would transpire that P.W1 admitted that she cannot say the exact date when she had gone to her matrimonial home to take back her stridhan articles. She further admitted that she had stated in her complaint when she went to her matrimonial home to take back her stridhan articles but the accused persons refused to hand over the same and drove her out from the house. But, quite surprisingly, it would transpire from the written complaint that the defacto-complainant never went to her matrimonial house to take back her stridhan articles and P.W2, who is the father of the defacto-complainant, also admitted in his cross-examination that after bringing back her daughter to her matrimonial home, she never returned back to her matrimonial home. Thus, two different versions of these prosecution witnesses in two different stages are totally different and antithetical, which hits the foundation of the prosecution case.

II. During the examination-in- chief of P.W1, she admitted that after being driven out from her matrimonial home, she had filed this complaint. But, during her cross-examination, she admitted that after the acquittal of her husband from two separate criminal cases u/s- 498A of IPC, she had subsequently lodged this complaint. Such two separate versions of a same person, are self contradictory to each other and self destructive to the prosecution case. What abstained the complainant to lodge such case for recovery of stridhan articles earlier and what prompted her to lodge such

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complaint just after the acquittal of her husband from two separate criminal proceedings u/s- 498A, IPC, is nothing but hitting the credibility of the instant complaint.

III. P.W1 deposed that she had submitted necessary documents and purchase receipts of stridhan articles to the I.O during the course of investigation. But, no such documents of purchase receipts had been produced in evidence by the prosecution side.

IV. During the cross-examination of P.W2, he never whispered as to whether her daughter i.e., the P.W 1 had submitted the purchase receipt of the stridhan articles to the I.O, rather he admitted that he (P.W 2) did not submit any such receipt to the I.O.

V. From the evidence of the I.O, it will be perceived that the I.O have not felt the necessity to collect the vouchers of the seized stridhan articles nor the purchase receipts of the gold ornaments.

VI. From the examination-in- chief of P.W 1, it can be perceived that after 03 years of torture upon the complainant, the accused persons drove her out from her matrimonial home after snatching her entire stridhan articles. On the contrary, evidence of P.W 2 discloses that he brought back her daughter from her matrimonial home. In this context, this Court is of opinion that both the issues of “drive out” and “bring back” the complainant, are not similar at all, rather their impact on the factual aspect are quite different.

VII. It is pertinent to mention here that the cross-examination of P.W 2 reveals to the effect that after 06 months from the date of marriage, he brought back her daughter from her matrimonial home to his house and after that she never returned back to her matrimonial home. But, in reverse, the contents of the complaint clearly spotlights to the effect that the father of the complainant brought back her daughter on 03-05-

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2015 and their marriage took place on 14-07-2013 which is beyond the period of 06 months. Thus, it is crystal clear that the oral testimony of P.W 2 does not corroborate the contents of the court complaint.

VIII. The examination-in- chief of P.W1 highlights that the alleged torture upon the defacto-complainant continued for 03 years, whereas the examination-in- chief of P.W2 signifies that the entire oppressive attitude of the accused persons upon her daughter continued for 06 months. It is not out of place to mention here that the duration of 06 months and 03 years have a gulf of difference for ascertaining the continuity of alleged torture.

IX. From the vigilant scanning of the evidence of P.W2, it could be observed that he did not state anything to the Police and his deposition is the first revelation before this Court. If that be so from the admission of P.W2, then undoubtedly, it is safe to put a question here that how much weightage or evidentiary value can be given upon a testimony which is the first revelation before a Court of Law.

X. Apart from the above-mentioned severe anomalies and self contradictions of the prosecution evidences, no such facts have been established from the prosecution evidences which becomes consistent only with the guilt and inconsistent with innocence of the accused.

15. Indian Penal Code is a Penal Statute which is required to be strictly interpreted for criminal adjudication in adversarial system. But, in view of the above discussion and findings and in the teeth of the above analysis of law, it has not detained this Court for too long to arrive at a definite conclusion that the prosecution has utterly failed to establish its case against the accused by any concrete piece of convincing evidences and thus, on a careful conspectus of the legal spectrum, juxtaposed with

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the observations on the facts expressed here-in-before, this Court, after applying its judicial mind, has no hesitation to hold that due to lack of cogent piece of evidence and in absence of the basic ingredients in order to constitute the alleged offences under charge, the guilt of the accused has not been proved beyond all reasonable doubts and as such, the above-named accused deserves acquittal from this case and hereby acquitted accordingly.

16. Ergo, it is

ORDERED

that the accused persons namely **1. Gopal Chandra Pal (A1), 2. Anil Chandra Pal (A2), 3. Parthana @ Pampa Chowdhury (A3), 4. Subrata Chowdhury (A4) & 5. Santi Sen (A5) [Filed for ever vide Order No. 05-06-2026] are found “not guilty”** of the offences punishable under section– 406/34 of the I.P.C and accordingly, the above-named accused persons are hereby **acquitted** under section 248 (1) of Cr.P.C from this case.

17. In view of Section 437-A of Cr.P.C, the accused persons having presented a petition to permit them to remain on the terms and conditions of the previous bail bonds, the prayer is allowed. They are permitted to remain on self same bond for the next six months with direction upon them to appear before the Appellate Court as and when any appeal is filed against this judgment within such period.

18. Seized articles, if any, be disposed off, as per law after the appeal period is over.

19. In compliance with the direction of the Hon’ble High Court in Sabitri Bhunya— Vs--The State of West Bengal and Others in CRA 266 of 2020 (decision on 29-03-2022), it is hereby endorsed by this Court that the victim has the right to prefer an appeal under proviso to Section 372 of Cr.P.C and if necessary, to avail free legal assistance through the legal services authorities concerned to prefer and prosecute

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such appeal.

20. Let a copy of this judgment of acquittal be forwarded to the District Magistrate, Nadia and District Legal Services Authority, Nadia for due intimation to the victim, in compliance with the aforesaid direction of the Hon'ble High Court.

21. The Judgment is pronounced and delivered in the Open Court on this 23rd day of June, 2026.

22. D/A is directed to upload the softcopy of this judgment in "C.I.S" at once, so as to enable the parties and the Ld. Counsels to access the same from the official website of e-Courts project and necessary noting be made in the relevant register accordingly.

Typed, printed & corrected by me,
Sd/- Soumyajit Bhattacharjee

A.C.J.M,
Ranaghat, Nadia.
JO CODE:WB01126

Sd/- Soumyajit Bhattacharjee

Additional Chief Judicial Magistrate,
Ranaghat, Nadia.
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