

FORM – A



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, 4TH COURT, BARASAT, NORTH 24 PARGANAS Present : Smt. Barnali Das Gupta (JO CODE WB00878) Addl. Sessions Judge, 4th Court, Barasat North 24 Parganas. Date of the Judgment : 04.06.2026 <u>S.T.Case No. 01(03)2026(S.C.506/2023)</u> (CNR No. : WBNP01-010289-2023) (Details of FIR/Crime and Police Station) Barasat P.S. Case No.587/2019 dated 19.10.2019 Under section 498A/307/506/34 of the IPC	
Complainant	State of West Bengal
Represented by	Sri. Sandip Kr. Bhattachayya, P.P.-in-charge
Accused	1. Ashim Kumar Naskar 2. Radha Naskar 3. Arati Sardar 4. Anagh Naskar 5. Provat Kumar Ghosh
Represented by	Sri Sudipta Dey, learned Advocate.

FORM – B

Date of Offence	Since after few days from 14.04.2012 till 10.09.2019
Date of FIR	19.09.2019
Date of Charge sheet	17.05.2021
Date of Framing of Charges	19.03.2026
Date of commencement of Evidence	16.05.2026
Date on which Judgement is reserved	N.A.
Date of Judgement	04.06.2026
Date of the Sentencing Order, if any	N.A.

Accused details :

Rank of the Accused	Name of Accused	Date of arrest (DOA)/ Date of surrender (DOS)	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	Ashim Kumar Naskar	<u>D.O.S.</u> 23.12.2019	<u>D.O.R.</u> 23.12.2019	Sections 498A/ 307/506/ 34 of IPC	Acquitted	NA	NA
A2	Radha Naskar	<u>D.O.S.</u> 23.12.2019	<u>D.O.R.</u> 23.12.2019	Sections 498A/ 307/506/ 34 of IPC	Acquitted	NA	NA
A3	Arati Sardar	<u>D.O.S.</u> 23.12.2019	<u>D.O.R.</u> 23.12.2019	Sections 498A/ 307/506/ 34 of IPC	Acquitted	NA	NA
A4	Anagh Naskar	<u>D.O.S.</u> 23.12.2019	<u>D.O.R.</u> 23.12.2019	Sections 498A/ 307/506/ 34 of IPC	Acquitted	NA	NA
A5	Provat Kumar Ghosh	<u>D.O.S.</u> 23.12.2019	<u>D.O.R.</u> 23.12.2019	Sections 498A/ 307/506/ 34 of IPC	Acquitted	NA	NA

FORM – C

List of Prosecution/Defence /Court Witnesses

A. Prosecution :

Rank	Name	Nature of Evidence (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
PW 1	Tapasi Naskar	Defacto complainant/victim
PW 2	Kakali Dhar	Sister of defacto complainant
PW 3	Tapan Kumar Dey	I.O. of this case

Defence Witnesses, if any :

Rank	Name	Nature of Evidence (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
DW	NIL	NA

B. Court Witnesses, if any :

Rank	Name	Nature of Evidence (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
CW	NIL	NA

List of Prosecution / Defence / Court Exhibits
Prosecution :

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/P.W. 1	Signature of P.W. 1 on written complaint.
2	Exhibit P-2/P.W. 3	Endorsement of S.I. Gopal Sarkar on FIR
3	Exhibit P-3/P.W. 3	Formal FIR
4	Exhibit P-4/P.W. 3	Notice under Section 91 Cr.P.C. addressed to complainant
5	Exhibit P-5/P.W. 3	Surrender Slip

Defence :

Sr. No.	Exhibit Number	Description
1	Nil	Nil.

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	Exhibit	NIL

D. Material Objects :

Sr. No.	Exhibit Number	Description
1	Exhibit	NIL

J U D G M E N T

1. Introduction :

This case was started on the basis of police report / charge sheet being No.146/2021 dated 17.05.2021 submitted by investigating officer ASI Tapan Kumar Das of Barasat P.S. North 24 Parganas.

2. Fact of the case :

The brief fact of the prosecution case is that one Tapasi Naskar, daughter of Kalipada Das, wife of Ashim Kumar Naskar of Bamunmura, Bhattacharjee Para, under P.S. - Barasat, District North 24 Parganas, lodged a written complaint before I.C. Barasat P.S. on 19.01.2019 to the effect that on 14.04.2012 she got married with Ashim Kumar Naskar according to Hindu rites and rituals and said marriage was registered on 25.04.2013. At the time of marriage her husband concealed the fact that he had already married. But, she started taking care of two sons of her husband from earlier marriage. Since after few days of her marriage all the accused persons started torturing her both mentally and physically. Her husband insisted her to leave his house. On protest they assaulted her. They even did not feed her properly and sometimes ousted her from their house. On 19.05.2019 accused persons conspired with each other to kill her by releasing cooking gas if she denied to sign on divorce paper. On earlier occasion her husband took her signature on some paper which was divorce paper. On next date accused persons drove her out from their house. On 03.07.2019 she was compelled to file a maintenance case in Barasat Court. After receiving summons of that case on 10.09.2019 all the accused persons came to the house of the elder sister of defacto complainant and pressurized her to withdraw the said maintenance case and when she refused they tried to kill her by putting pillow on her mouth. Suddenly her eldest sister Kakali Das came to the room and thinking that the defacto complainant has already died, accused persons left her and fled away from their house by taking her gold chain. She became senseless and within the help of neighbours she was taken to Barasat Sadar Hospital first wherefrom she was referred to R.G. Kar Hospital. Hence, this case.

3. Initiation of the case :

After getting the written complaint I.C. Barasat PS started Barasat P.S. case No. 587 dated 19.10.2019, under Section 498A/307/506/34 of the IPC against the accused persons and authorized A.S.I. Sri A. Biswas to investigate

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the case. Accordingly, A.S.I A. Biswas started investigation, but as he was transferred, ASI Tapan Kumar Dey took up the investigation as per order and on completion of investigation he submitted charge sheet against accused persons under Sections 498A/307/506/34 of I.P.C. Thereafter, the case record was committed to learned District Judge, North 24 Parganas by learned C.J.M Barasat from where the same was transferred to this Court for disposal.

4. Appearance of the accused persons :

The accused persons appeared before the Court for facing trial.

5. Charge:

At this stage the case was opened by learned P.P. in-charge as he described charge brought against the accused persons under Sections 498A/307/506/34 of I.P.C considering the police report. Charge was read over and explained to the accused persons, to which they pleaded not guilty and claimed to be tried. Hence the trial.

6. Defence case:

The defence case as it appears from the trend of cross examination of the prosecution witnesses and examination of accused persons under Section 313 of the Criminal Procedure Code is the total denial of the prosecution case. It is claimed by the accused persons that they are innocent.

7. Witnesses and Exhibited documents :

During trial the prosecution adduced 03 witnesses and it has also relied on some documentary evidence. The following are the witnesses of the prosecution side :-

PW 1	Tapasi Naskar	Defacto complainant/victim
PW 2	Kakali Dhar	Sister of defacto complainant
PW 3	Tapan Kumar Dey	I.O. of this case

Prosecution also proves the following documents :-

1	Exhibit P-1/P.W. 1	Signature of P.W. 1 on written complaint.
2	Exhibit P-2/P.W. 3	Endorsement of S.I. Gopal Sarkar on FIR

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3	Exhibit P-3/P.W. 3	Formal FIR
4	Exhibit P-4/P.W. 3	Notice under Section 91 Cr.P.C. addressed to complainant
5	Exhibit P-5/P.W. 3	Surrender Slip

8. Examination of accused U/S 313 Cr.P.C :

After completion of evidence of prosecution side, accused persons were examined under Section 313 of Cr.P.C to which they pleaded their innocence throughout and declined to adduce any D.W.

9.Points for Determination :

- 1) Are the accused persons committed offence punishable under Section 498A/307/506/34 of I.P.C. ?
- 2) Has the prosecution been able to prove the case beyond all reasonable doubts ?

10. Decision with Reasons :

10.1. Both the points are taken up together for the sake of convenience and to avoid repetition.

10.2. In this trial involvement of the accused persons for the offence under Sections 498A/307/506/34 of I.P.C have been alleged by the prosecution side. Now it has to be seen as to how far the prosecution has succeeded to establish its case against the accused persons. In order to ascertain such facts it is essential on the part of the Court to go through not only the evidence of the parties but also to look into the relevant provisions of law in this regard.

10.3. Now let us scan the evidence adduced by the parties to see how far the prosecution has been proved the case beyond all reasonable doubts .

10.3(a). PW- 1 Smt. Tapasi Naskar stated in his evidence that she lodged a complaint before I.C. Barasat P.S. against her husband Ashim Kumar Naskar, sister-in-laws Arati Sardar and Radha Naskar, elder son Anag Naskar and neighbour Provat Ghosh. She stated that the written complaint was prepared as per her instruction and she put her signature on the written complaint. She proved her signature on written complaint which is marked Exbt. P-1/P.W. 1. She also identified the accused persons inside the court room.

During cross-examination she has stated that she has filed this case due to some family dispute which has already been resolved in between themselves. At present she has no grievances.

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10.3(b). PW-2, Kakali Dhar stated in her evidence that Tapasi Naskar is her younger sister and she knows that she filed a case against her in-laws members. She identified all the accused persons inside the court room. It is also stated by her that she has no detail idea about this case.

In her cross-examination she stated that her house is situated at a considerable distance from the house of her sister.

10.3(c). Sri Tapan Kumar Dey, 2nd I.O. of this case has stated in his evidence that on 28.02.2021 he was posted as an ASI of Police at Barasat P.S. and he knows SI Gopal Sarkar who was posted on 19.10.2019 at Barasat P.S. He also knows his handwriting and signature as per official capacity. On 19.10.2019 said S.I. Gopal Sarkar was on table duty and he received the written complaint of this case and started the instant case. He proved the endorsement of S.I. Gopal Sarkar on the written complaint which has been marked as Exbt. P-2/P.W. 3. Accordingly said Gopal Sarkar filled up the formal FIR on which the signature of the then I.C. of Barasat P.S. is also present. He proved the formal FIR which has been marked as Exbt. P-3/P.W. 3. He has further stated that on that date he was endorsed to investigate this case and received the C.D. from 1st I.O., namely ASI Abdulla Biswas. After taking over charge of investigation he examined the complainant and available witnesses and recorded statement of the witnesses under Section 161 Cr.P.C., but he did not record the statement of the complainant separately as his statement was corroborated with the written complaint. He visited the P.O. again, but as the previous I.O. prepared rough sketch map with index of the P.O. already, he did not prepare any document. He also sent notice under Section 91 of the Cr.P.C. to the complainant to supply medical document, if any, but she did not produce any such document. He proved said notice under Section 91 Cr.P.C. addressed to the complainant which has been marked as Exbt. P-4/P.W. 3. He received the surrender slip where he came to know that the accused persons surrendered before the court. He could not identify the accused persons as I did not arrest them. He proved the surrender slip of accused persons Ashim Kumar Naskar, Radha Naskar, Arati Sardar, Anagh Naskar and Provat kumar Ghosh which he received from previous I.O. and the same has been marked as Exbt. P-5/P.W. 3. After completion of investigation he submitted charge-sheet against the accused persons vide C.S. No. 146/2021 dated 17.05.2021 under Sections 498A/307/506/34 IPC.

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In his cross-examination he admitted that he submitted charge-sheet against Provat Kumar Ghosh under Section 498A IPC who is neighbour-cum-friend of the principal accused and except mentioning in C.D. he has no other document to show that he visited the P.O. He denied that the investigation of this case was not done by him properly.

10.4 Learned Public Prosecutor-in-charge and learned defence counsel argued in this case by saying that this is a case under Sections 498A/307/506/34 of the IPC and three witnesses including the defacto complainant-cum-victim and I.O. were examined. Both of them prayed to pass necessary judgement on perusal of evidence of the witnesses.

10.5.(a) Now from the plain reading of the provision of law as laid down in respect of Section 498A of I.P.C. - whoever being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

10.5 (b) As per Section 307 of IPC – Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for like, or to such punishment as is hereinbefore mentioned.

10.5 (c) As per Section 506 of IPC – Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

10.5 (d) As per Section 34 of I.P.C. — When a criminal act is done by several persons with furtherance of common intention by all, each of such persons is liable for that act in the same manner as if it were done by him alone.

10.6 In this case in his FIR the defacto complainant has stated that on 14.04.2012 she got married with Ashim Kumar Naskar according to Hindu rites and rituals and said marriage was registered on 25.04.2013. At the time of

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marriage her husband concealed the fact that he had already married. But, she started taking care of two sons of her husband from earlier marriage. Since after few days of her marriage all the accused persons started torturing her both mentally and physically. Her husband insisted her to leave his house. On protest they assaulted her. They even did not feed her properly and sometimes ousted her from their house. On 19.05.2019 accused persons conspired with each other to kill her by releasing cooking gas if she denied to sign on divorce paper. On earlier occasion her husband took her signature on some paper which was divorce paper. On next date accused persons drove her out from their house. On 03.07.2019 she was compelled to file a maintenance case in Barasat Court. After receiving summons of that case on 10.09.2019 all the accused persons came to the house of the elder sister of defacto complainant and pressurized her to withdraw the said maintenance case and when she refused they tried to kill her by putting pillow on her mouth. Suddenly her eldest sister Kakali Das came to the room and thinking that the defacto complainant has already died, accused persons left her and fled away from their house by taking her gold chain. She became senseless and within the help of neighbours she was taken to Barasat Sadar Hospital first wherefrom she was referred to R.G. Kar Hospital.

10.7 The accused persons have been charged for the offence punishable u/s 498A/307/506/34 IPC.

10.8 While going through the evidence of the witnesses specially the complainant-cum-victim and comparing the same with the written complaint, it appears that though in the written complaint it was mentioned by the victim that she was subjected to torture both mentally and physically by the accused persons who even tried to kill her and it is also stated by her that that she was admitted in Barasat Sadar Hospital and subsequently in R.G. Kar Hospital but surprisingly in her evidence this witness stated nothing to prove the allegations alleged by her against the accused persons in the written complaint. Rather, in cross-examination she told that the case was started for their family dispute which has already been settled. Her elder sister also examined in this case, but stated that she has no detail idea regarding the incident.

10.9. As it appears from the record that no offending weapon has been seized, produced and proved. Though this is a case under Section 498A/307/506/34 IPC, but neither any medical officer was examined nor any

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medical document has been produced to prove the injury of the victim. The reluctant approach of the prosecution regarding this matter essence the lack of truthfulness of the incident.

10.10 As it appears from the above discussion, this court has no hesitation to hold that the defacto complainant and her witness has failed to prove the allegations of Section 498A/307/506/34 of IPC against the accused persons. The I.O. of this case has given his evidence in detail regarding the alleged offence against the accused persons, but without any medical document or any corroborative evidence of any public witnesses including the victim it is very hard to rely only the evidence of any police officer for the purpose of giving punishment to the accused.

11. Conclusion:

In this context after keeping bird's view in the above discussion this court is of the opinion that the evidence of the prosecution's witnesses is not sufficient to prove the offence alleged against the accused persons by the defacto complainant under Sections 498A/307/506/34 of I.P.C. Thus, having considered all the attending facts and circumstances as discussed above, this Court does have to hold that there is no cogent, corroborating and sufficient evidence against the accused persons and as such the accused persons cannot be held guilty for the offence punishable under Sections 498A/307/506/34 of the I.P.C and consequently, the prosecution failed to prove the case beyond reasonable doubts for want of cogent, corroborative and sufficient evidence and the accused persons are entitled to be acquitted.

Both the points are hereby disposed off.

Hence, it is

ORDERED

that the accused persons namely 1. Ashim Kumar Naskar, 2. Radha Naskar, 3. Arati Sardar, 4. Anagh Naskar and 5. Provat Kumar Ghosh are found not guilty to the charge punishable under Section 498A/307/506/34 IPC and they are hereby acquitted u/s 235 (1) of the Cr.P.C.

The accused persons are set at liberty at once and are discharged from their respective bail bonds, if not wanted in any other case.

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The sureties are also discharged from their respective bail bond.

The seized Alamats, if any, be disposed off after the expiry of the period of appeal.

Note in TR.

Inform all concerned.

Dictated & corrected by me,

ASJ, 4th Court, Barasat

(Barnali Dasgupta)
Additional Sessions Judge,
4th Court, Barasat, North 24 Parganas

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