

PREFACE

Form A

IN THE COURT OF JUDICIAL MAGISTRATE (1 st CLASS), BONGAON, NORTH 24 PARGANAS	
Reg. 1920/2023	
Present: -	
Dr. Sourav Subba, W.B.J.S. Judicial Magistrate, (1 st Class), Bongaon, North 24 Parganas JO Code (UID No)-WB01041	
Date of the Judgment: 18.06.2026	
G. R Case No. 752 of 2022 T. R No. 793 of 2023 CNR No. WBNP 07-003076-2023	
[Bagdah P. S. Case No. 200 of 2022 dated 30.03.2022 punishable under Sec. 498A/406/34 of the Indian Penal Code, 1860 (Act No. 45 of 1860)]	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Md. Alfazur Rahaman, Ld. A.P.P.
ACCUSED	1) Haridas Shil, S/O Lt. Amulya Shil, Male, Age- Years; 2) Gurudas Shil, S/O Lt. Amulya Shil, Male, Age- ; 3) Anima Shil @ Roy, W/O Gopal Roy, Female, Age- Years; 4) Mamoni Shil, W/O Haridas Shil, Female, Age- Years; and 5) Kakali Shil, W/O Kalidas Shil, Female, Age- Years, all are the residents of Vill.- Magurkona, P. O. Naikdugari, P. S. Bagdah, Dist. North 24 Parganas
REPRESENTED BY	Mr. Ranjit Pramanik

FORM B

Date of Offence	25.02.2022
Date of FIR	24.07.2012
Date of Charge sheet	30.03.2022
Date of Framing of Charges	17.06.2026
Date of commencement of Evidence	17.06.2026
Date on which Judgment is reserved	N/A
Date of the Judgment	18.06.2026
Date of the Sentencing Order, if any	N/A

Accused details: -

Rank of 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 Sec. 428, Cr.P.C.
A-1	Haridas Shil	N/A	14.03.2014	under Sec. 498A/406/34 of the <i>Indian Penal Code, 1860</i>	Acquitted	N/A	N/A
A-2	Gurudas Shil	N/A	14.03.2014	under Sec. 498A/406/34 of the <i>Indian Penal Code, 1860</i>	Acquitted	N/A	N/A
A-3	Anima Shil @ Roy	N/A	14.03.2014	under Sec. 498A/406/34 of the <i>Indian Penal Code, 1860</i>	Acquitted	N/A	N/A
A-4	Mamoni Shil	N/A	14.03.2014	under Sec. 498A/406/34 of the <i>Indian Penal Code, 1860</i>	Acquitted	N/A	N/A
A-5	Kakali Shil	N/A	14.03.2014	under Sec. 498A/406/34 of the <i>Indian Penal Code, 1860</i>	Acquitted	N/A	N/A

Form C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution Witnesses: -

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Purnima Roy	(De-facto complainant cum victim)
PW-2	Sanita Roy	(Mother)

B. Defense Witnesses, if any: -

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW 1		
DW 2		

C. Court Witnesses, if any: -

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1		
CW 2		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Exhibit No. P1/PW1.	Sign. Of PW-1 in written F.I.R

2,	Exhibit P-2/PW-2	
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B. Defense:

Sr. No.	Exhibit Number	Description
1	Exhibit D-1 /DW1	
2	Exhibit D-2 / DW2	

C. Court Exhibits: -

Sr. No.	Exhibit Number	Description
1	Exhibit C-1 /CW1	
2	Exhibit C-2 / CW2	

D. Material Objects: -

Sr. No.	Material Object Number	Description
1	MO 1	
2	MO 2	

JUDGMENT

BRIEF FACTS OF THE CASE: -

1. Facts of the prosecution case in brief is that on 06.03.2022 at about 16:05 hrs. one Smt. Purnima Shil, W/O- Gurudas Shil, D/O- , resident of Vill.- Satberia, P. O. & P. S. Gopalnagar, Dist. North 24 Parganas came to Bagdah P. S. and thereby lodged a written F. I. R against accused persons namely, 1) Haridas Shil, S/O Lt. Amulya Shil, Male, Age- Years; 2) Gurudas Shil, S/O Lt. Amulya Shil, Male, Age- ; 3) Anima Shil @ Roy, W/O Gopal Roy, Female, Age- Years; 4) Mamoni Shil, W/O Haridas Shil, Female, Age- Years; and 5) Kakali Shil, W/O Kalidas Shil, Female, Age- Years, all are the residents of Vill.- Magurkona, P. O.

Naikdugari, P. S. Bagdah, Dist. North 24 Parganas to the effect that she got married with accused No. 2 on 04.11.2020 as per *Hindu* rites and customs. At the time of marriage cash and others dower articles were given to the accused persons as per their demands. Besides than these the father of herself also gave several golden ornaments of various descriptions and several others domestic articles including bed, almirah, showcase, cloths and others utensils were given to her as a “*Stridhan*” for her personal use at her matrimonial home. After marriage she went to her matrimonial home carrying all her *stridhan* and started living there with son of accused No. 2 as husband and wife. However, very unfortunately, after a few days of their marriage, all the accused persons started showing their real colors and she was subjected to torture including both mental and physical torture by the accused persons who are the relatives of accused No. 1 on demand of further dowry. That ultimately, on 25.02.2022 at about 11:30 hrs. the accused persons assaulted her and drove her out from her matrimonial home after detaining her *stridhan* there and thereby at present she is residing at her father’s house in a great hardship. Accordingly, she prays before the court for getting back of her *stridhan* detained at her matrimonial home by the accused persons and also inflicting adequate punishment to them as available in law.

REGISTRATION OF CASE & INVESTIGATION: -

2. On the basis of said written F.I.R, Bagdah P. S. Case No. 200 of 2022 dated 30.03.2022 punishable under Sec. 498A/406/34 of the *Indian Penal Code, 1860* (Act No. 45 of 1860) was registered/started. Accordingly, the then Inspector-in-charge (I/C) of said P. S. also endorsed Mr. Anup kr. Chakraborty, Assistant Sub-Inspector (A.S.I.) of West Bengal police and posted in said P. S. as an Investigation Officer (I.O.) of this case and he started the investigation into the case.

3. That in the meantime, all the accused persons after receiving notices under Sec. 41A of the *Code of Criminal Procedure, 1973* voluntarily surrendered before the court of Ld. Additional Chief Judicial Magistrate, Bongaon and thereby were enlarged on bail on 14.03.2014 by the order of the Ld. Court.

4. During investigation the concerned I.O. visited the place of occurrence (P. O) and prepared an index and rough sketch map, collected injury report and others relevant materials, recorded statements of available witnesses and F.I.R named accused persons under Sec. 161 of the *Code of Criminal Procedure, 1973*. Thus, during investigation it was also found that the above-named accused persons are behind the said incidents and accordingly a *prima facie* case under Sec. 498A/406/34 of the *Indian Penal Code, 1860* has also been well established against the accused persons. Hence, Charge Sheet has also been filed against the accused persons by the

concerned I.O. of Bongaon P. S. vide Charge Sheet No. 200/2022 dated 30.03.2022 before the court of Ld. Additional Chief Judicial Magistrate, Bongaon on 15.03.2022. Accordingly, cognizance in the offences was also taken by the Ld. Court.

SUPPLY OF COPY OF POLICE REPORT & OTHER DOCUMENTS: -

5. The copies of police report along with other relevant documents or relevant extract thereof forwarded to the Magistrate with the police report under Sec. 173 of the *Code of Criminal Procedure, 1973* were furnished to the accused persons, free of cost in compliance with the provision of Sec. 207 of the Code of Criminal Procedure. Ultimately, case record was transferred to this court for disposal.

FRAMING OF CHARGE: -

6. That after appearance of all the accused persons before this court the charge was framed against them on 17.06.2026 under Sec. 498A/406/34 of the *Indian Penal Code, 1860*. The contents of charge were read over and explained to the accused persons in *Bengali* language to which they each pleaded not guilty by saying “*Aami Nirdosh*” and claimed to be tried. Hence, the trial initiated.

EVIDENCE: -

7. The prosecution’s evidence was started on and from 17.06.2026. During course of trial the prosecution adduced in total only 2 witnesses, who were examined-in-chief and cross-examined. The prosecution also produced 1 documentary evidence before the court on their behalf.

(A) THE ORAL EVIDENCE: -

8. The oral evidence adduced by the prosecution in the instant case is/are as follows: -

- (i) Purnima Roy (*De-facto* complainant cum victim) as PW-1; &
- (ii) Sanita Roy (Mother) as PW-2.

(B) THE DOCUMENTARY EVIDENCE: -

9. The prosecution also produced 1 documentary evidence before the court to prove their case which is as:-

(i) Sign. Of PW-1 in written F.I.RExhibit No. P1/PW1.

**EXAMINATION OF ACCUSED PERSONS UNDER SEC. 313 OF THE
CODE OF CRIMINAL PROCEDURE: -**

10. On closure of prosecution evidence, the accused persons were also examined by the court on 18.06.2026 under Sec. 313 of the Cr. P. C. The questions were read over and explained to them in the language convenient for them to understand to which they pleaded innocence throughout and declined to give any evidence on their behalf.

DEFENSE CASE: -

11. The defense case is simply denial of the case of prosecution. Thus, it is the specific defense of the accused persons that they never committed any offence as alleged by the prosecution.

ARGUMENT: -

12. Accordingly, heard argument from both the Ld. Advocate for defense and Ld. Assistant Public Prosecutor for the state of West Bengal on 18.06.2026.

13. According to my above-mentioned discussions the following points have been raised for determination.

POINTS FOR DETERMINATION: -

(i) Whether the accused persons being husband or relative of husband have tortured the de-facto complainant both mentally and physically and thereby have committed an offence in this case punishable under Sec. 498A/34 of the Indian Penal Code, 1860 as alleged by the prosecution or not?

(ii) Whether the accused persons have committed criminal breach of trust upon the de-facto complainant in respect to her stridhan and thereby

have committed an offence punishable under Sec. 406/34 of the Indian Penal Code, 1860 as alleged by the prosecution or not?

(iii) Whether the prosecution has been able to prove its case beyond a reasonable doubt or not?

DECISION WITH REASONS: -

14. Before determination of these points or discussing the instant case on merit and its fate with the appreciation of appropriate evidences I here feel necessity to mention the relevant and substantial provisions of penal law as contained in the *Indian Penal Code, 1860* wherein the present accused persons in the instant case are booked into by the prosecution. These punitive provisions are as follows: -

Sec. 498A. Husband or relative of husband of a woman subjecting her to cruelty. -

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.

Explanation.—For the purposes of this section, “cruelty” means—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Sec. 406. Punishment for criminal breach of trust. -

Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Sec. 34. Acts done by several persons in furtherance of common intention. -

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

15. Now, I would like to discuss and determine in detail the above mentioned three points or merit of the instant case on the basis of the oral and documentary evidence as adduced and produced by the prosecution.

(a) Point No. (i)

(i) Whether the accused persons being husband or relative of husband have tortured the de-facto complainant both mentally and physically and thereby have committed an offence in this case punishable under Sec. 498A/34 of the Indian Penal Code, 1860 as alleged by the prosecution or not?

16. As mentioned above the prosecution in the instant case in total adduced only 2 oral evidence who were examined-in-chief and cross-examined and also produced 1 documentary evidence before the court.

(a) Argument submitted by the Ld. A.P.P: -

17. I also heard the arguments as submitted by both the Ld. Advocates for defense and Ld. Assistant Public Prosecutor for the state. The Ld. A.P.P argued and submitted before the court that it is ostensibly clear and conclusively proved from the content of both the oral and documentary evidences as adduced and produced by the prosecution that the accused persons have committed an offence as alleged by the prosecution in the case. Therefore, here the accused persons at this stage cannot escape from their criminal liability in the instant case for the offence committed by them. So, this is a fit case to be convicted under Sec. 498A/406/34 of the *Indian Penal Code, 1860*.

(b) Argument submitted by the Ld. defense counsel: -

18. During the course of argument, the Ld. Advocate for defense also argued and submitted before the court that in the instant case the accused persons have been falsely implicated in charge under Sec. 498A/406/34 of the *Indian Penal Code, 1860* by the prosecution. He furthermore submitted before the court that in the instant case same being a criminal case, the total and absolute manner of burden of proving the *factum* of offence during whole judicial proceeding lies upon the prosecution. Besides then these, here the independent witnesses were not adduced by the prosecution and even if they are adduced, they did not corroborate case of the prosecution. So, here the case of the prosecution fails in this respect. Hence, the allegation made by the prosecution is not tenable and criminal liability of the accused persons here does not arise in this case. Lastly, he submitted and prayed before the court for acquittal of the accused persons in the instant case from the allegation made by the prosecution.

(c) Court's analysis: -

19. Thus, I heard the arguments as submitted by both the Ld. Advocate for the defense and Ld. A.P.P for the prosecution at length and also perused the oral and documentary evidences as adduced and produced by the prosecution. Here, the defense did not adduce their witnesses nor produced any documentary evidence. So, whatever the fate of the case would be on the basis of the oral and documentary evidences as adduced and produced from the side of the prosecution. However, here I would like to draw a lineal differentiation or defer from the submission as made by the Ld. defense counsel regarding the burden of proving a criminal case or *onus probandi* in absolute manner lies upon the prosecution. At present, there is a gradual decrease/change over the theory of proving a criminal case in absolute manner by the prosecution. Therefore, in modern times, such a theory no longer exists and proving of a criminal case by the prosecution beyond a reasonable doubt also depends upon the facts and circumstances of each of the cases as per the observation made by our Hon'ble Supreme Court in several cases. In this regard at this stage, I recall a beautiful and landmark judgment pronounced by the Hon'ble Apex Court which was duly reported in the case of ***State of West Bengal Vs. Orilal Jaiswal and Anr. (1994) 1 SCC 73: (AIR 1994 SC 1418)***. In the said solemn judgment the Hon'ble Court has observed as under:

"We are not oblivious that in a criminal trial the degree of proof is stricter than what is required in the civil proceedings. In a criminal trial however, intriguing may be facts and circumstances of the case, the charges made against the accused must be proved beyond all reasonable doubts and the requirement of proof cannot lie in the realm of surmises and conjectures. The requirement of proof beyond reasonable doubt does not stand altered even after the introduction of Section 498-A I.P.C. and Section 113-A of Indian Evidence Act. 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 for proof in a criminal trial and the question whether the charges made against the accused have been proved beyond 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 placed on record. Lord Denning in Bater v. Bater (1950) 2All ER 458, 459 has observed that the doubt must be of a reasonable man and the standard adopted must be a standard adopted by a reasonable and just man for coming to a conclusion considering the particular subject-matter." (Para 14)

20. Therefore, to determine the instant point or fate of the case I hereby would also like to visit oral and documentary evidence as adduced and produced by the prosecution.

21. In this respect I also perused the depositions made by the witnesses on the side of the prosecution. Perusing the case record and order sheet it appeared to me that out of total 6 Charge sheeted prosecution witnesses, only 1 were adduced by the prosecution. Here, C.S.W-1 *i.e.* the *de-facto* complainant cum victim in the case was examined as PW-1 and her mother as PW-2. However they both did not corroborate the case of the prosecution and there are no others witnesses including independent witnesses to corroborate them. Here other witnesses did not turn up despite several summons. Thus, there are no others independent witnesses in the case as adduced by the prosecution. Furthermore, very unfortunately, the they both did not support the case of the prosecution. PW-1 did not say anything remarkably about the facts and case before the court. She also could not say the exact date, months and year of commission of torture and its manner and demand of dowry by the accused persons. Neither, the doctor was examined nor the medical documents were exhibited before the court. Others charge sheeted witnesses also did not turn up before the court despite issuance of several summons including the I.O. of the case. Here, the scribe was not made as a witness in the case by the I.O. and so the written complaint was also not exhibited before the court. The case is very old filed in the year 2022 and which is more than 4 years. Bongaon sub-division is near to Indo-Bangladesh international boarder and a highly sensitive and crime prone zone/area occurring several kinds and nature of crimes every day. This tendency is increasing day by day and not decreasing. On the other hand, my court is single court of Judicial Magistrate for entire sub-division and already is overburdened with more than 14 thousand of pending cases. It is pertinent to mention here that the Constitution of India in its Art. 39-A r/w Art. 21 enshrines the very object and purpose of providing equal justice and free legal aid to common litigants which also includes speedy delivery of justice at their door steps. In such premise, if I do not take abrupt initiatives for reducing the numbers of pending cases more particularly cases of 10 years and old without compromising with the merits of the case, I think sooner or later there will be a serious problem in coming future in my court and it may collapse over its own weight. Hence, ultimately for the speedy delivery of justice and disposal of unsurmountable numbers of backlog of cases pending before my court and also before the subordinate judiciary in the state of West Bengal in general and considering the guidelines given by the Hon'ble Apex Court in the case of ***Raj Deo Sharma vs. State of Bihar*, AIR 1998 SC 3281; 1998 AIR SCW 3208** and also as per submission made by the Ld. A.P.P that he does not want to adduce further witnesses in the case, the prosecution evidence was closed.

22. During the course of argument, I also recalled a judicial decision pronounced by

the Hon'ble Apex Court duly reported in the case of ***Ramaiah alias Rama v. State of Karnataka***, AIR 2014 SC 3388 which is exactly fit with the instant fact and case. In the said case the Hon'ble Apex Court while hearing the matter in appeal was pleased to set aside the order of conviction reversed by the High Court over the finding of the trial court of appellant u/s 498A of the *Indian Penal Code, 1860*. The divisional bench of the Hon'ble Apex Court in the said case was pleased to observe as-

“When the demand of dowry and giving of dowry at the time of marriage has not been proved, further version of the prosecution witnesses that there was a demand for payment of remaining amountIn the absence of any particular allegation against the appellant in this behalf, would be improper to convict the appellant under Section 498-A, IPC.....

We find that the High Court has ignored the aforesaid features which are elaborately discussed in the judgment of the trial court, culling from the depositions of the prosecution witnesses.....

Even if there is little evidence, that is too infinitesimal to convict the appellant, more so when that is not only self-contradictory but also surrounded by other weighty circumstances that go in favour of the accused. Once we find that the demand of dowry and harassment on that account is not proved beyond reasonable doubt, question of invocation of Section 113, Evidence Act would not arise.....” (Para 20,21,22)

23. Again, our own parent High Court, the Hon'ble High Court at Calcutta in a judicial decision duly reported in the case of ***Jagannath Mondal and Ors. v. State of West Bengal***, 2013 CrI. L.J. 1994 by its single bench while hearing the matter in appeal against conviction by trial court and interpreting the provision of Sec. 498A of the *Indian Penal Code, 1860* was pleased to observed as:

“Next comes the question of offence under Section 498A of the Indian Penal Code.....Regarding torture there is no corroboration by any independent witness. Rather the evidence of the I. O. runs counter to what has been stated by the relative witness in Court over the matter of alleged torture concerning demand of dowry.

This being the position that the prosecution case does not stand and the judgment of the learned trial Court suffers from infirmities and is liable to be set aside. (Paras 23, 24 & 25)

24. Similarly, in the case of ***State of Maharashtra v. Subhash Bhau Pawar***, AIR Online 2020 Bom 787 the Hon'ble Bombay High Court while interpreting the presence of Sec. 498A of the I.P.C. was pleased to held that in the allegation that accused-husband harassed and tortured victim, suspecting her character and

demanded Rs. 1,00,000/- and the general statement of said demand made, however there was no evidence to support the same and nothing on record to show ill-treatment and harassment made by the accused and his family, the accused persons were entitled get an acquittal. The single judge bench of the Hon'ble Court observed as:

“There is an acquittal and therefore, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless they are proved guilty by a competent court of law. Secondly, the accused having secured their acquittal, the presumption of their innocence is further reinforced, reaffirmed and strengthened by the trial Court which rightly observed that the prosecution had failed to prove its case. The order of the trial Court of acquittal, in my view, need not be interfered with.”
(Para 17)

25. Accordingly, I hold the considered view that the contention and allegation of the prosecution that the accused persons being the husband and relatives of husband have tortured both mentally and physically upon the *de-facto* complainant and thereby have committed an offence in this case punishable under Sec. 498A/34 of the *Indian Penal Code, 1860* as alleged by the prosecution has not been proved by the prosecution.

(b) Point No. (ii): -

(ii) Whether the accused persons have committed criminal breach of trust upon the de-facto complainant in respect to her stridhan and thereby have committed an offence in this case punishable under Sec. 406/34 of the Indian Penal Code, 1860 as alleged by the prosecution or not?

26. Now, here for the points No. (ii) i.e. whether the accused persons have committed criminal breach of trust upon the *de-facto* complainant in respect to her *stridhan* and thereby have committed an offence punishable under Sec. 406/34 of the *Indian Penal Code, 1860* as alleged by the prosecution or not? Here, as because above point No.(i) regarding the commission of offence of cruelty including both mental and physical cruelty to the *de-facto* complainant cum victim by the accused persons in the case has not been proved by the prosecution. Therefore, here the commission of offence of criminal breach of trust by the accused persons under Sec. 406/34 of the I.P.C. also does not leg to stand in the case. Besides than these, there is also absence of any sufficient oral and documentary evidence regarding the commission of these offences in the case. The prosecution could not produce before

the court the purchase receipts or even the lists of *stridhan* article in the case. Accordingly, this point also fails here and so not proved by the prosecution.

(c) Point No. (iii): -

(iii) Whether the prosecution has been able to prove its case beyond a reasonable doubt or not?

27. Lastly here, as because both the above points No. (i) & (ii) regarding the commission of above alleged offences by the accused persons have not been proved by the prosecution in the case. Therefore, it is also hereby conclusively proved that the prosecution has not been able to prove its case in the instant case beyond a reasonable doubt against the accused persons.

28. The Hon'ble Apex Court in the case of ***Babu Singh v. State of Punjab, 1964(1) Cri. L.J. 566*** while determining the standard of proof to be proved by the prosecution in any criminal case has laid down some fundamental principles of measurement which is still a guiding factor at present day despite elapse of many years of pronouncement of said landmark judgment. The Hon'ble Court laid down as:

“In a criminal trial, the presumption of innocence is a principle of cardinal importance and so, the guilt of the accused must in every case be proved beyond a reasonable doubt. Probabilities however strong and suspicion however grave can never take the place of proof.” (Para 21)

29. Similarly, in an aged old case of ***Saraswati Prasad v. Rex, AIR, 1949 Allahabad 412*** the Hon'ble Allahabad High Court has observed as:

“It is true that the burden of establishing any special issue raised by the accused rests upon him, but there is always the burden of the general issue as to the guilt of accused person which always rests upon the prosecution. When the burden of the issue is on the prosecution the case must be proved beyond a reasonable doubt; when, however, the burden of an issue is upon the accused, he is not in general called on to prove it beyond a reasonable doubt, or in default to incur a verdict of guilty; it is sufficient if he succeeds in proving a prima facie case, for then the burden of such issue is shifted to the prosecution which has still to discharge its original and major onus that never shifts, that is, that of establishing on the whole case, the guilt of the accused beyond a reasonable doubt: A.I.R.(20) 1933 Cal. 800, Rel. on.” (Para 6)

30. Hence, considering all the aspects and circumstances of the case and also

considering aforesaid discussions, perusing both the oral and documentary evidences as adduced and produced by the prosecution and also considering the above judicial decisions, it appears to me that in the instant case the prosecution has miserably been failed to prove its case beyond a reasonable doubt against the accused persons. In result, prosecution case fails and the accused persons are entitled to get an acquittal.

31. Hence it is,

O R D E R E D

That the accused persons namely, 1) Haridas Shil, S/O Lt. Amulya Shil, Male, Age- Years; 2) Gurudas Shil, S/O Lt. Amulya Shil, Male, Age- ; 3) Anima Shil @ Roy, W/O Gopal Roy, Female, Age- Years; 4) Mamoni Shil, W/O Haridas Shil, Female, Age- Years; and 5) Kakali Shil, W/O Kalidas Shil, Female, Age- Years, all are the residents of Vill.- Magurkona, P. O. Naikdugari, P. S. Bagdah, Dist. North 24 Parganas are found ***not guilty*** in this case for the offences punishable under Sec. 498A/406/34 of the *Indian Penal Code, 1860* and they are hereby ***acquitted*** under Sec. 248(1) of the Cr. P. C.

32. The accused persons are set free from the charge and they are also released from their bail bonds.

33. The concerned surety/sureties is/are also discharged from his/their liability.

34. The surety amount be exhausted and inform the surety accordingly.

35. The case is disposed of in contested form.

36. Note in the Germane Register/Trial Register.

37. Let the soft copy of this judgment be uploaded in the CIS within 48 hours from this day as per Rule 186A of the Cr. R. O. of the Hon'ble High Court at Calcutta.

38. The victim/victims in the case is/are in liberty to prefer an appeal before the Ld. Appellate Court as per provision of Sec. 372 of the Cr. P. C. against the order of acquittal of the accused person/persons. If necessary, victim/victims can also avail the free legal aid/assistance through the legal services authorities concerned to prefer and prosecute such appeal.

39. Let, a copy of this judgment be sent to DLSA, North 24 Parganas at Barasat and D. M. North 24 Parganas at Barasat at once in compliance with the direction of the

Hon'ble High Court at Calcutta vide Hon'ble Court's order dated 29.03.2022 in c/w
CRA 266 of 2020 with CRAN 1 of 2020.

B.C- II to do needful.

Typed by me

Judicial Magistrate, (1st Class),
Bongaon, North 24 Parganas
JO Code (UID No)-WB01041

(Dr. SOURAV SUBBA)
Judicial Magistrate, (1st Class),
Bongaon, North 24 Parganas
JO Code (UID No)-WB01041