

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,  
FAST TRACK COURT – 1, PURULIA.**

Present : **Sri Somak Das (J.O. Code-WB00944)**  
Additional Sessions Judge,  
Fast Track Court No. -1, Purulia

**Sessions Case No. 127/2014**  
**Sessions Trial No. 05(07)2014**  
**C.I.S. No. 801/2015**

**CNR No. WBPU01-000874-2014**

**DATE OF JUDGMENT : 30<sup>th</sup> day of March, 2026**

<b>COMPLAINANT</b>	<b>STATE OF WEST BENGAL</b>
<b>REPRESENTED BY</b>	<b>Advocate Swapan Kumar Majumdar Public Prosecutor in-charge</b>
<b>ACCUSED</b>	<b>Sadhan Mahali</b>
<b>REPRESENTED BY</b>	<b>Advocate Subhasish Sarkar</b>

Date of Offence	8 <sup>th</sup> Ashar , 1420 B.S.
Date of FIR	15.11.2013
Date of Charge sheet	07.02.2014
Date of Framing of Charges	08.07.2014
Date of commencement of Evidence	22.07.2019
Date on which Judgment is reserved	---
Date of Judgment	30.03.2026
Date of Sentencing Order, if any	NIL

**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.
A-1	Sadhan Mahali	16.11.13	20.02.14	498/493/376 I.P.C	Acquitted	N/A	N/A

<b>LIST OF PROSECUTION WITNESS</b>		
<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
PW-1	Tarun Mahali	Other witness
PW-2	Dr. Krishnendu Mandal	Medical Witness
PW-3	Name not disclosed	Victim lady
PW-4	Name not disclosed	Mother of victim lady
PW-5	Asim Sengupta	Investigating Officer

<b>LIST OF DEFENCE WITNESS</b>		
<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
DW-1	NIL	NIL

<b>LIST OF COURT WITNESS</b>		
<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
CW-1	NIL	NIL

<b>LIST OF PROSECUTION EXHIBITS</b>			
<b>Serial no.</b>	<b>Exhibit No.</b>	<b>Description of documents</b>	<b>By whom proved</b>
1.	P1 series, P1/1 and P1/2	Requisition, Emergency Ticket and report of the V.L	PW-2
2.	P1/3	Signature of V.L on the injury report	PW-3
3.	P2	Written complaint along with signature of V.L	PW-3

4.	P2/1	Receiving endorsement along with signature of O.C, S.I Debasish Pahari of Raghunathpur P.S on the written complaint	PW-5
5.	P3	Seizure list dated 04.01.2014 by which school certificate and certificate issued by Pradhan, Berada G.P have been seized	PW-5
6.	P3/1	Signature of the V.L on the seizure list dated 04.01.2014	PW-3
7.	P4	Formal F.I.R along with signature of O.C, S.I Debasish Pahari of Raghunathpur P.S	PW-5
8.	P5	Rough sketch map and index of the P.O	PW-5

**LIST OF DEFENCE EXHIBITS**

Sr. No.	Exhibit Number	Description
1.	NIL	NIL

**LIST OF COURT EXHIBITS**

Sr. No.	Exhibit Number	Description
1.	NIL	NIL

**LIST OF MATERIAL OBJECTS**

Sr. No.	Material Object Number	Description
1.	NIL	NIL

**J U D G E M E N T**

1. The accused person named above stands trial for the alleged offence punishable under Sections 498/493/376 of the Indian Penal Code, 1860, hereinafter, referred to as the I.P.C, in short.

2. The fact of the prosecution case is that the defacto complainant/victim lodged a complaint before the O.C, Raghunathpur P.S to the effect that four year ago she got married with Tarun Mahali, son of Late Lakshmikanta Mahali as per Hindu rites and customs. Out of wedlock, they have no children. Accused had visiting terms in their house as he was brother in law (sala) of her elder brother namely,

Madhu Mahali. The accused knew beforehand that they would not have children. On 5<sup>th</sup> Ashar 1420 B.S in the morning the accused came to her matrimonial house and told the V.L that 'daiba oushudh' is provided in a village nearer to village Baghdadabar and if she takes such medicine, she will be conceived. Accordingly, she went there with Sadhan Mahali who took her in a vacant rail quarter and committed rape upon her against her will day by day. He also said the V.L that he loved her and promised her to marry. When she raised alarm, accused assaulted her. On 8<sup>th</sup> Aswin V.L asked him to marry her, otherwise leave her, and on hearing this, accused confined her in a room under lock and key. At night, the accused along with 2/1 persons came to her in drunken condition and told his sexual urge was completed and he sold her in exchange of money. In that night, she anyhow managed to escape and informed her father and returned to her father's house.

3. On the basis of the said written complaint, Raghunathpur P.S Case No. 141/13 dated 15.11.2013 was started against the F.I.R named accused person namely, Sadhan Mahali under Sections 498/493/376 of the I.P.C.

4. S.I Asim Sengupta of Raghunathpur P.S was entrusted to investigate the case, who after completion of the investigation, submitted charge sheet being no. 28/14 dated 07.02.2014 against the F.I.R named accused person (A-1) under Sections 498/493/376 of the I.P.C.

5. The Ld. Additional Chief Judicial Magistrate, Raghunathpur on 26.02.2014 committed this case to the court of learned Sessions Judge, Purulia. Cognizance was taken under Section 193 of the Code of Criminal Procedure by the learned Sessions Judge, Purulia and on 28.04.2014 he transferred the case to this court for trial and disposal. On 16.05.2014, this Court received the case record.

6. On perusing the charge sheet and the materials sent with it under Section 173 of the Code of Criminal Procedure, 1973, hereinafter referred to as the Cr.P.C, in short, on 08.07.2014 charge has been framed against the accused person above named under Sections 498/493/376 of the I.P.C. The substance of charge under the above sections was read over and explained to the accused person in Bengali to which he pleaded not guilty by saying "Ami Nirdosh" and claimed to be tried.

7. After completion of the evidence of the prosecution, the accused person was

examined under Section 313 of the Cr.P.C. The accused person declined to adduce any defence witness on his behalf. The defence case as it appears from the trend of cross examination of the prosecution witnesses and the answers given by the accused person in examination under Section 313 of the Cr.P.C is that of total denial of the prosecution case.

#### **POINTS FOR CONSIDERATION**

8. In order to ascertain the allegations against the accused person, the following points are framed for adjudication.

**i.** Whether the accused person has committed any offence punishable under Sections 498/493/376 of the I.P.C. ?

**ii.** Whether the prosecution has been able to prove the case against the accused person beyond all reasonable shadow of doubt ?

#### **DECISION WITH REASONS**

9. Both the two points are taken up together for consideration for the sake of convenience as they are interrelated.

10. The prosecution, to establish the occurrence and to bring home the charges as labeled against the accused person, has examined as many as five (05) witnesses.

11. **The P.W. 1 (Husband of the V.L)**, in his examination-in-chief, has deposed that after her marriage with him, she resided with him for three years. For the last seven years, she was not residing with him. She remarried one Prathama Mahali, son of Paltu Mahali of Chatuhasa under P.S. Arsha. He did not know Sadhan Mahali by face. He did not know anything about any incident orienting his wife and the accused Sadhan Mahali. **In his cross examination**, he disclosed that one day her wife called her over telephone and stated that she was unwell. Then he asked her to come to the Sadar Hospital Purulia. But later on, he came to know that his wife instead of coming to the hospital left the house with Sadhan Mahali.

12. **The P.W. 2 (Medical Officer)**, in his examination-in-chief, has deposed that on 16.11.2013, he was posted as Medical Officer at Raghunathpur S.S

Hospital. On that day, S.I Asim Sengupta of Raghunathpur P.S sent requisition containing some queries along with V.G before him. On that day, he was in-charge of Superintendent of Raghunathpur S.D Hospital. He accepted the said requisition by putting his signature containing his official seal and forwarded the same to on call Gynecologist. On that day, the V.G came to Raghunathpur S.D Hospital through emergency and he filled up the emergency ticket and referred her to Gynecologist. The said emergency ticket was written and signed by him containing official seal. In connection with Raghunathpur P.S case no. 141/2013 dated 15.11.2013 under Section 498/493/376 I.P.C, he examined the V.G who was brought and identified to him by LC/1123 Sefali Mahato of Raghunathpur P.S and mother Mohini Mahali. On examination, he did not find any external injury. He referred her to Gynecologist for examination of her private part. The requisition, emergency ticket and report of the V.G (**Exbts. P1 series**). **In his cross examination**, he disclosed that the V.G had not stated any history before him.

13. **The P.W. 3 (Victim Lady), in her examination-in-chief**, has deposed that she lodged a complaint before Raghunathpur P.S against Sadhan Mahali. Prior to 4 years of filing complaint, she got married with Tarun Mahali of Nadiha Mistimahal, Chatanipara within Purulia Town P.S. Out of wedlock, she did not give any issue. The accused was the brother in law (sala) of her cousin brother (pistuto dada). The accused had visiting terms in their house. The accused person told her husband and herself that in their village, ayurvedic medicine (joributi) was provided for giving birth. Accordingly, accused accompanied her to a vacant rail quarter of Adra. She was alone in the said rail quarter. Taking opportunity of her loneliness, the accused committed rape upon her on several dates against her will. She asked him to leave her and in reply, the accused promised her to merry. At night of one Durgapuja, the accused along with other persons, all were in drunken condition came to her and told her that his sexual urge was completed. After hearing this, she anyhow managed to escape from that place and went to her father's house. Thereafter, she lodged a complaint before Raghunathpur P.S. One Kamal Bauri wrote the complaint as per her instruction. After completion of writing, the contents of the complaint was read over and explained to her and after hearing and understanding the contents of the complaint to be correctly

written, she put her signature thereon. The said written complaint along with her signature (**Exbt.P2**). Police took her to Raghunathpur hospital where she was medically examined by the doctor of Raghunathpur Hospital, Purulia with her consent. She put her signature on injury report. Her signature on the injury report (**Exbt. P1/3**). She handed over one original school certificate and original certificate of Darda Gram Panchayet to police and police seized the same by preparing a seizure list in presence of witnesses. She also put her signature thereon. Her signature in the seizure list (**Exbt. P3/1**). **In her cross examination**, she disclosed that she could not say the date of marriage of her 'pistutu dada'. She acquainted with the accused at the marriage ceremony of her 'pistuto dada'. On 18<sup>th</sup> Agrahayan, her marriage was solemnized. Her husband and herself attended doctor's chamber as she failed to give any issue. But she did not hand over any medical document to the police. On 5<sup>th</sup> Ashar, accused took her to rail quarter of Adra. She could not recollect the exact year. He could not say whether any other rail quarters surrounding the rail quarter where she was kept. He could not recollect the exact date when she was raped by the accused for the first time and for the last time. On interrogation, she stated to the police that at night of one Durgapuja, the accused along with other persons, all were in drunken condition came to her.

14. **The P.W. 4 (Mother of victim Lady), in her examination-in-chief**, has deposed that V.L lodged a complaint before Raghunathpur P.S against Sadhan Mahali. Before the alleged incident, her daughter got married with Tarun Mahali of Chatanipara within Purulia Town P.S. Out of wedlock, her daughter failed to give any issue. The accused took her daughter to Baghadabar for providing her medicine for giving birth of issue. From Baghadabar, her daughter was taken to rail quarter and she was confined in the said rail quarter. During her confinement, she was raped by the accused. She came to know about the incident from her daughter. They searched for her daughter but she could not be found for long time. Thereafter, knowing her presence in a rail quarter, they went there and brought her back to her house. **In her cross examination**, she disclosed that she could not say the exact date when Sadhan Mahali took her daughter. He could not say the exact date when V.L was raped by the accused.

15. **The P.W. 5 (Investigating Officer), in his examination-in-chief**, has

deposed that on 15.11.2013, he was posted at Raghunathpur P.S, second officer as S.I of police. On that day, on the basis of a written complaint being lodged by the V.L, Raghunathpur P.S case no. 141/2013 dated 15.11.2013 under Sections 498/493/376 I.P.C was initiated against Sadhan Mahali. The said complaint was received by O.C, S.I Debasish Pahari of Raghunathpur P.S. His receiving endorsement along with signature on the written complaint had been marked as **Exbt. P.2/1**. Thereafter, O.C, S.I Debasish Pahari of Raghunathpur P.S prepared the formal F.I.R and put his signature on it (**Exhibit. P4**). After being entrusted with the task of investigation, he perused the F.I.R, visited the P.O and prepared rough sketch map and index of the P.O in a single page (**Exhibit. P5**). Thereafter, he examined the complainant and other available witnesses at P.O and recorded their statements under Section 161 Cr.P.C. On 16.11.2013, he held raid and arrested the FIR named accused person and forwarded him before the Ld. ACJM, Raghunathpur. On 16.11.2013, he made prayer before the Ld. A.C.J.M, Raghunathpur for recording the statement of the V.L under Section 164 Cr.P.C and his prayer was allowed but the V.L was not sent before the Ld. Magistrate for recording her statement u/s. 164 Cr.PC. He took the V.L and the accused to Raghunathpur S.D. hospital and they were medically examined there with their respective consent. He collected their medical report. On 04.01.2014, he seized a school certificate and certificate issued by the the Pradah, Berada G.P by preparing a seizure list and signed thereon (**Exbt. P3**). On 25.11.2013, semen of the accused was collected from Raghunathpur S.D hospital and he sent semen of the accused to FSL for testing. Thereafter, on 07.02.2014 after taking permission from the superior officer, he submitted charge sheet being no. 28/14 dated 07.02.2014 in this case against the accused Sadhan Mahali under Section 498/493/376 I.P.C. **In his cross examination**, he disclosed that on 15.11.2013, he was endorsed this case for investigation. He could not say the english date corresponds to 8<sup>th</sup> Ashar, 1420 B.S (alleged date of occurrence of the offence as per Formal FIR). On 15.11.2013, he visited the P.O. He did not record the statement of Shibaram Mahali and Hor Bahadur who reside surrounding the P.O denoted in the rough sketch map and index as 'E & F' He recorded the statement of the V.G u/s 161 Cr.PC. The V.G (P.W-3) had not stated to him that at night of one Durgapuja, the accused along with other persons, all were in drunken

condition came to her. He did not collect report of semen and FSL report.

16. This is the sum and substance of evidence of the prosecution.

17. The crux of the case of prosecution in a nutshell is that about four years back, she got legally married with Tarun Mahali (**PW-1**) as per Hindu rites and customs and after marriage, they had no children. The accused person was the brother-in-law of her elder brother and for that, he had visiting terms in their house. It was previously known to him that they would have no children. Knowing the same, on 5<sup>th</sup> Ashar 1420 B.S, the accused came to her matrimonial house and told her that 'Daiba Oushudh' is provided in a village nearer to the village Baghdadabar and she will be conceived, if she takes such medicine. Accordingly, the V.L went there with accused who took and kept her in a vacant Railway Quarter and also committed rape upon her against her will day by day. The accused also promised her to marry. When she asked him to marry her, the accused assaulted her and confined her in a room under lock and key. At night, the accused along with 1/ 2 persons in drunken condition came to her. In that night, she anyhow managed to escape and informed her father and returned to her father's house.

18. On perusal of the written F.I.R (**Exhibit P2**), I find that the defacto complainant had not mentioned the name of any person in whose presence the accused took her from her matrimonial house. Here, the defacto complainant is the sole victim of the alleged incident. As per F.I.R, there is no eye witness of the alleged incident. Therefore, it can be said that the V.L would have full ocular knowledge about the entire incident.

19. In the instant case, the V.L is the most vital witness of the prosecution to prove its case against the accused person beyond all reasonable shadow of doubt.

20. Now, let's see how far the victim (**PW-3**) has supported the case of the prosecution by adducing her evidence.

21. During evidence in examination-in-chief, **PW-3** disclosed that she got married with Tarun Mahali and out of wedlock, they had no children. The accused, being the brother-in-law of her cousin brother, had visiting terms in their house. The accused told her husband (**PW-1**) and herself that in their village, Ayurvedic Medicine is provided to give birth. Accordingly, accused accompanied

her to a vacant Railway Quarter of Adra. She was alone in the said Quarter. Taking opportunity of her loneliness, the accused committed rape upon her on several dates against her will. She further deposed that at night of Durgapuja, the accused along with other persons in drunken condition came to her and told her that his sexual urge was completed. After hearing his, she anyhow managed to escape from that place and went to her father's house. Thereafter she lodged complaint before Raghunathpur P.S. One Kamal Bauri wrote the complaint as per her instruction. She proved her written complaint with her signature (**Exhibit P2**).

22. **But, PW-3**, in her cross-examination, could not recollect the exact date when she was raped by the accused for the first time and for the last time. Though, she stated that her husband and she herself attended doctor's chamber as she was unable to give birth, but she did not hand over any medical document to that effect to the police.

23. Apart from that, it is found that **PW-3**, during her evidence, has not fully supported the case of the prosecution.

24. In this case, the victim (**PW-3**) was not taken before the Ld. Magistrate for recording her statement under section 164 Cr. P.C. From the case record, I do not find the statement of the V.L recorded under section 164 Cr.P.C.

25. In this regard, the evidence of the I.O of this case (**PW-5**) is very important.

26. During evidence, **PW-5** disclosed that on 16.11.2013 he made prayer before the Ld. A.C.J.M, Raghunathpur for recording the statement of the victim under section 164 Cr.P.C and his prayer was allowed. But the victim was not sent before the Ld. Magistrate for recording her statement under section 164 Cr. P.C.

27. Considering such evidence of the I.O of this case (**PW-5**), I totally failed to understand as to what prompted him not to send the victim before the Ld. Magistrate for recording her statement under section 164 Cr.P.C in spite of allowing his prayer by the Ld. Magistrate. I am surprised as to why the I.O did so.

28. The evidence of **PW-3** goes to show that she was taken to Raghunathpur S. D Hospital for her examination. She was medically examined there by the Medical

Officer of the Hospital (**PW-2**) with her consent and she put her signature on the injury report and proved the same (**Exhibit P1/3**).

29. **PW-2**, being the Medical Officer of Raghunathpur S.D Hospital, confirmed the evidence of the victim by deposing that on 16.11.2013 the victim came to the hospital through emergency. He filled up the said Emergency Ticket and referred her to Gynecologist. He also examined her and on examination, he did not find any external injury. He referred her to Gynecologist for examination of her private part. During evidence, **PW-2** proved the requisition, emergency ticket and report of the victim (**Exhibit 1 series**). During cross examination, he clearly stated that the victim had not stated any history before him.

30. So far as the medical evidence of the victim is concerned, it reveals that there was no external injury over her body. The victim was referred to Gynecologist for examination of her private part. But I find no medical document showing that her private parts was examined by any Gynecologist and made any report to that effect. There is no medical /injury report of the victim regarding her private parts. In rape case, such injury report is very vital. In absence of cogent medical evidence of the victim, the prosecution's case of committing forcible rape upon the victim appears to be concocted and as such, the same is not believable.

31. From the evidence of the husband of the victim (**PW-1**), it appears to me that he neither supported the case of the prosecution nor the evidence of the victim (**PW-3**) on material points. **PW-1** stated that he did not know anything about any incident orienting his wife and accused Sadhan Mahali.

32. According to the victim, accused told her husband (**PW-1**) that in their village, Ayurvedic Medicine is provided to give birth and accordingly, the accused took her to a vacant railway quarter. But, **PW-1** has not corroborated the aforesaid evidence of his wife i.e. the victim.

33. **PW-4** is the mother of the victim and her evidence is merely a hearsay evidence. She came to know about the incident from her daughter.

34. In spite of that, their evidence is contradictory with each other. As per statement of **PW-3**, she anyhow managed to escape from the rail quarter and went to her father's house. On the contrary, **PW-4** disclosed that after knowing

her presence in a rail quarter, they went there and brought her back to her house. **PW-4** supporting the evidence of their daughter (**PW-3**) had not stated anything regarding the presence of her son-in-law when the accused told that in their village, Ayurvedic medicine is provided to give birth.

35. Moreover, during her cross-examination, **PW-4** could not say when accused Sadhan Mahali took her daughters, when her daughter was raped by the accused and when her daughter was confined in the rail quarter.

36. **PW-3**, in her evidence, candidly deposed that on interrogation, she stated before the police that at night of one Durgapuja, the accused alongwith other persons in drunken condition came to her. But, during cross, the I.O (**PW-5**) contradicted her aforesaid evidence.

37. Here, the I.O did not collect F.S.L report.

38. In the light of above discussion, I am of the clear view that the evidence of the victim suffers from inherent incongruities. There is no corroborative and cogent evidence in order to establish the case of the prosecution. The medical evidence has also not supported the prosecution's case. The evidence of the prosecution witnesses makes the prosecution's case doubtful and disbelievable.

39. Accordingly, I am to hold that the prosecution has miserably failed to prove its case against the accused person beyond the reasonable doubt and as such, the accused deserves an order of acquittal.

**40. Both the points of consideration are accordingly, answered in negative and disposed of.**

Hence, it is

**O R D E R E D**

that the sole accused person facing trial, viz, **Sadhan Mahali (A-1)** is **found and held not guilty** for the offences punishable **under Sections 498/493/376 of the I.P.C** and he is hereby acquitted from this case under Section 235(1) of the Cr.P.C.

The accused person be discharged from his bail bond and the surety be discharged.

The seized alamats, if any, be disposed of after completion of the period of appeal.

Dictated and Corrected by me.

Sd/-  
Additional Sessions Judge,  
Fast Track Court -I, Purulia.

Sd/-  
Additional Sessions Judge,  
Fast Track Court-I, Purulia.