

FORM-A [M-34] UTTAR DINAJPUR Court of 1st Additional District & Sessions Judge Special Court (NDPS Act), Raiganj, Uttar Dinajpur Present : Rohan Sinha Additional District & Sessions Judge Judge (Special Court) (NDPS Act) Raiganj, Uttar Dinajpur (JO Code- WB00883) Sessions Case No. 74 of 2020 (CNR NO. WBUD01-00-2538-2020) Sessions Trial no. 01 of 2022 (Arising out of Itahar Police Station Case No. 65 of 2015 dated 03.03.2015) GR Case No. 366 of 2015	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Shri Swarup Biswas
ACCUSED	1.Mister Ali (A1) 2.Hamedur Rahaman @ Banka (A2) 3.Sayed Bibi @ Jyostna (A3)
REPRESENTED BY	Janab Md. Munsef Ali

Argument heard on : 10.06.2026

J U D G M E N T
Under Sections 498A/307/34 Indian Penal Code
Delivered on 18.06.2026

A. PROLOGUE

1. Crime, like a corrosive blight upon the body politic, imperils the tranquillity of society, unsettles the confidence of law-abiding citizens, and strikes at the very foundations of ordered civilisation. Against this ever-present menace stands the law-enforcement machinery, the first sentinel of the rule of law, entrusted with the solemn obligation of detecting wrongdoing, securing accountability, and preserving the delicate balance between individual liberty and collective security. It is through the discharge of this sacred trust with fairness, courage, and fidelity that public confidence in the justice-delivery system is sustained and strengthened.
2. The attainment of this noble objective, however, demands more than the mere institution of criminal proceedings. Every accusation of crime

must be followed by an investigation that is diligent, impartial, and penetrating; a prosecution that is alert, prepared, and purposeful; and a defence that is able, vigilant, and intellectually engaged. The criminal trial is, after all, not a ritualistic exercise but a solemn quest for truth. Regrettably, the present case reveals a far less inspiring spectacle. The investigation appears lifeless and perfunctory, bereft of the vigour expected in the pursuit of truth; the prosecution has proceeded with a disquieting indifference to its responsibilities; and the defence, instead of illuminating the issues in controversy, has often meandered without discernible direction. The cumulative effect of these deficiencies has cast a sombre cloud over the administration of justice, compelling this Court to navigate a path made unnecessarily arduous by the collective failure of all concerned to rise to the demands of their respective duties.

3. In the case at hand, the prosecution has levelled a grave and serious accusation against the accused persons, namely A1, A2, and A3, who are respectively the husband and parents-in-law of one Kulsum Khatun. It is the prosecution case that, acting in furtherance of their common intention and in concert with one another, they subjected Kulsum Khatun to cruelty and sustained ill-treatment within the matrimonial home and, in a culmination of such alleged conduct, made an attempt upon her life by administering poison. By reason of these allegations, the accused stand charged with having committed offences punishable under Sections 498A and 307 read with Section 34 of the Indian Penal Code.

PROSECUTION STORY

4. It would now be most apposite, in the interest of a coherent and judicious adjudication, to retrace, albeit with brevity, the chronicles of the present case; for the factual substratum, once laid bare in its precision and clarity, not only illumines the pathway of reasoning but also imparts lucidity and depth to the questions that press for determination before this Court.

5. The genesis of the present prosecution lies in a written complaint lodged by the victim, Kulsum Khatun. In her complaint, she averred that on 20.09.2013 she entered into matrimony with accused No. 1 in accordance with the Shariat norms of Islam. It was further alleged that, at the time of marriage, her father bestowed various valuable articles together with a sum of ₹1,55,000/- upon the accused persons. According to the defacto-complainant, although the marriage was the culmination of a love affair, accused Nos. 2 and 3, from the very inception of the matrimonial alliance, subjected her to physical and mental cruelty and, in concert with accused No. 1, endeavoured to drive her out of her matrimonial abode.
6. The defacto-complainant further alleged that on 01.10.2013 the accused persons forcibly administered poison to her. Upon her raising alarm, neighbouring persons rushed to the spot, whereupon the accused persons shifted her to Itahar Hospital, from where she was referred to Raiganj District Hospital for further treatment.
7. It was alleged that, following her recovery and discharge, when her father proposed to initiate legal action, the accused persons pacified him with assurances of good conduct and undertook that no further cruelty would be inflicted upon her. Reposing faith in such assurances, she was persuaded to return to her matrimonial home.
8. The defacto-complainant has further alleged that when she conceived, the accused persons, acting in concert, sought to compel her to terminate the pregnancy. Unable to withstand such pressure, she left her matrimonial home and took shelter at her paternal residence, where she subsequently gave birth to a male child. It was further alleged that on 27.02.2015, when she returned to her matrimonial home accompanied by her parental relations and her infant son, she was denied entry and subjected to abusive and humiliating treatment at the hands of the accused persons.
9. On basis of such a letter of complaint addressing to the Inspector-in-

charge, Itahar Police Station, this case was registered and SI Paran Mondal was assigned to take up the charge of investigation.

B. THE PROBE

10. Upon assuming charge of the investigation, S.I. Mondal set the investigative apparatus into motion with due promptitude. He undertook raids in an endeavour to apprehend the accused persons, visited and inspected the locus in quo, prepared a rough sketch map with index, collected documents pertaining to the marriage between the de facto complainant and accused No. 1, and examined the relevant witnesses, recording their statements in accordance with law.
11. During the course of investigation, S.I. Mondal also procured the injury report of the defacto-complainant from Itahar B.P.H.C. Upon completion of the investigative exercise and after due consultation with his superior officers, he submitted Itahar Police Station Charge-Sheet No. 150 of 2015 dated 30.04.2015 against accused Nos. 1, 2 and 3, alleging commission of offences punishable under Sections 498A/323/307/34 of the Indian Penal Code.

C. THE CHARGE

12. On 21.04.2022 charge was framed by this court against the accused A1, A2 & A3 under Section 498A/307/34 IPC, of course, after service of copies of documents, relied upon by the State Prosecution, to them on 06.12.2018 before the Court of Learned Magistrate prior to commitment of this case. The substance of the accusation was read over and explained to the accused A1, A2 & A3 to which each of them had pleaded not guilty and claimed to be tried.
13. Hence, this trial.

D. PER CONTRA

14. The accused persons, however, were not inclined to acquiesce in the allegations levelled against them. Maintaining their plea of innocence,

they elected to put the prosecution to strict proof of its assertions and thereby subjected the entire edifice of the prosecution case to the crucible of a full-fledged trial.

15. The defence of the accused persons, in essence, is that they have been ensnared in a malicious and carefully orchestrated conspiracy allegedly engineered by the defacto-complainant, and that the prosecution is but an outgrowth of such contrivance rather than a truthful narration of events.

E. EVIDENCE ON RECORD:

16. Before advertng the arguments advanced by the Learned Defense Lawyer as well as Learned Public Prosecutor-in-charge (for short Learned PP-in-charge), it would be fecund to have a cursory view of the witnesses examined and documents & materials exhibited in this case.
17. To reserve its right to the judgment, the prosecution has examined as many as 07 (seven) witnesses. They are –

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As per the amendment made in the Calcutta High Court Criminal (Subordinate Courts) Rules, 1985, vide Notification No. 2301-G dated July 15, 2022

PW	Name	Status
1	Kulsum Khatun	Victim-cum-FIR maker
2	Faisur Rahaman	Father of the victim
3	Salema Bibi	Mother of the victim
4	Bouli Bibi	Neighbour/witness
5	Khadija Bibi	Neighbour/witness
6	Dr. Biswajit Goswami	MO of Itahar BPHC
7	SI Paran Mondal	Investigating Officer

18. This apart, the following documents have been admitted into evidence on the part of the prosecution:

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Exhibits	Matters	PW-
Exbt.1	Letter of complaint	PW-1
Exbt. 1/1	Signature of PW1 on Exbt. 1	PW-1
Exbt.2/1	Signature of PW1 on seizure list dated 04.03.2015	PW-1
Exbt. 3	Injury report dated 01.10.2013	PW-6

Exhibits	Matters	PW-
Exbt. 4	Rough sketch-map with index	PW-7
Exbt. 4/1	Signatures of PW7 on Exbt. 4	PW-7

19. On the other hand, the accused persons refused to adduce any evidence on their part during their examination under Section 313 Cr.P.C..

F. RIVAL SUBMISSIONS

20. Before this Court proceeds with the process of formulation of points for consideration of this case it is condign to refer the submissions of the Learned Lawyers for the respective parties what they canvassed during their respective stage of argument before this Court.
21. It is pertinent to mention that Learned PP-in-charge has argued with vehemence and all his wit. The argument addressed by the Learned PP-in-charge met with vociferous opposition from the Learned Defense Counsel who has tried to snip off each and every point raised by his Learned Adversary.

G. SUBMISSIONS OF STATE PROSECUTION

22. The Learned PP-in-Charge, with conspicuous fervour and unremitting earnestness, stood steadfastly in support of the prosecution edifice and advanced a forceful submission that the evidence brought on record leaves little room for any conclusion other than the culpability of the accused persons. The substance of the arguments canvassed on behalf of the prosecution may be succinctly encapsulated thus:
23. It was strenuously contended that the prosecution has succeeded in forging every indispensable link in the chain of circumstances and events, thereby dispelling every reasonable shadow of doubt. According to the Learned PP-in-Charge, the materials on record unmistakably establish that the accused persons, acting in concert and with a common design, subjected Kulsum Khatun to sustained physical and

mental torment and ultimately administered poison to her in the year 2013 with the sinister object of extinguishing her life.

24. The Learned PP-in-Charge further expounded that the lucid and unembellished narration of the victim (PW1), which set the criminal law in motion, when read in conjunction with her testimony before this Court, renders the entire factual panorama transparent and intelligible. It was submitted that her evidence illuminates the circumstances surrounding the occurrence with remarkable clarity and lends substantial assurance to the prosecution case.
25. Proceeding further, it was emphatically argued that the minor inconsistencies or trivial discrepancies which may have surfaced in the evidence are but natural manifestations of human fallibility and ought not to be magnified beyond their true significance. With considerable acuity, the Learned PP-in-Charge submitted that truth, when filtered through the imperfect faculties of human perception, recollection, and narration, seldom emerges with mathematical precision. Such insignificant infirmities, it was urged, cannot be permitted to furnish a sanctuary to the accused, particularly when they do not strike at the very substratum of the prosecution case. Building upon this premise, the Learned PP-in-Charge maintained that the prosecution narrative remains substantially cohesive and unbroken, exhibiting no material hiatus capable of generating a reasonable doubt. In culmination, it was urged with marked vehemence that the prosecution has satisfactorily discharged its burden of proof and that the accused persons deserve to be visited with appropriate penal consequences commensurate with the gravity of the acts alleged against them.

H. ARGUMENT OF LEARNED DEFENSE COUNSEL

26. In a spirited and unsparing rejoinder, the Learned Defence Lawyer virtually dismantled the edifice sought to be erected by his Learned Adversary and, at the very threshold, invited this Court to discard the prosecution case in its entirety. It was vehemently contended that the

evidentiary fabric woven by the prosecution is densely studded with material factual inaccuracies, glaring inconsistencies, and intrinsic infirmities. To fortify this submission, the Learned Defence Lawyer argued that the prosecution had conspicuously failed to place before the Court certain best and most cogent evidence which, by all reasonable expectations, ought to have been produced. Such omission, according to him, casts a long and inescapable shadow of doubt upon the very genesis and substratum of the accusations levelled against the accused persons.

27. Proceeding further with considerable forensic dexterity, the Learned Defence Lawyer submitted that the alleged incident of poisoning is stated to have occurred in the year 2013, whereas the criminal law was set in motion only in the year 2015. This unexplained and inordinate interregnum, it was urged, strikes at the credibility of the prosecution narrative. He maintained that the evidence adduced by the prosecution is utterly barren of any circumstance capable of generating even a reasonable suspicion against his clients, much less establishing their guilt beyond the hallowed threshold of reasonable doubt required by criminal jurisprudence.
28. The Learned Defence Lawyer thereafter assailed the prosecution case as being actuated by ulterior motives and characterized the entire prosecution endeavour as a desperate and contrived attempt to propagate a canard under the guise of criminal prosecution. To lend substance to this contention, he painstakingly drew attention to what he described as irreconcilable contradictions and discordant versions emerging from the testimonies of the prosecution witnesses. According to him, the prosecution, bereft of a firm factual foundation, has endeavoured to erect a magnificent superstructure upon shifting sands and has sought to build nothing more than a veritable castle in the air.
29. Inviting the penetrating scrutiny of this Court to the evidence available on record, the Learned Lawyer for the accused persons submitted that

the narrative of alleged torture is a fanciful tale, unsupported by credible and trustworthy material. It was argued that when the testimony of the alleged victim is placed in careful juxtaposition with the evidence of the other private witnesses, the latent infirmities and inherent absurdities embedded within the prosecution case become manifest with the clarity of the midday sun. According to the Learned Defence Lawyer, such comparative examination lays bare the fragile and illusory nature of the prosecution version, rendering it wholly unsafe to form the foundation of a conviction.

I. POINTS FOR RUMINATION

30. On completion of arguments, as per requirement of Section 354 of Cr.P.C., 1973, it is the incumbent duty of this court to formulate the points for determination and assign reasons for harbouring to any conclusion on those points.
31. From the rival contentions of the respective parties following points have been cropped up for consideration and determination:
 - A. Have the accused persons committed an offence punishable under Sections 498A/307/34 IPC ?*
 - B. Are the accused persons liable to be convicted for the offence charged with ?*
 - C. And if so, what would be the quantum of punishment ?*

J. THE HALLOWED TOUCHSTONE OF PROOF: WHERE TRUTH IS WEIGHED AND JUSTICE FINDS ITS MEASURE

32. In the endeavour to resolve the questions engaging the judicial conscience of this Court, it becomes inescapable to advert to certain time-hallowed propositions of law. There exist issues which, despite repeated judicial exposition and scholarly discourse, continue to test the discerning mind of the Court and demand renewed reflection each time the criminal culpability of an accused is placed for adjudication. One such perennial question in criminal jurisprudence pertains to the standard of proof, a matter which has also been vigorously debated in the present case.

33. In brief, it may be stated that while the touchstone for assessing whether a fact is “proved”, “disproved” or “not proved”, as defined under Section 3 of the Indian Evidence Act, 1872, remains common to both civil and criminal proceedings, the degree of proof markedly differs. In a criminal trial, the prosecution must establish the guilt of the accused beyond reasonable doubt, whereas in a civil dispute, a finding may rest upon the balance of probabilities.
34. The distinction in the standard of proof in the two classes of cases cannot, this Court thinks, be articulated with augmentation than by quoting from the judgment of Lord Denning, J., in Miller vs. Minister of Pensions¹. Speaking of the degree of proof required in a criminal case before felony of an accused person is said to be evinced, Lord Denning, J.. stated:-

"That degree is well settled. It need not reach certainty but it must reach a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence "of course, it is possible but not in the least probable", the case is proved beyond reasonable doubt."

35. As regards the degree of cogency required to be discharged, a fact is said to be “proved” when, upon a judicious appraisal of the matters before it, the Court either believes its existence or finds such existence so eminently probable that a prudent person, placed in the circumstances of the case, would act upon that supposition. It stands crystallised by a catena of judicial pronouncements that while civil disputes may be resolved on a mere preponderance of probabilities, a criminal charge must be established beyond reasonable doubt. The rationale is neither abstruse nor elusive, for the law, when it casts the burden of proof upon a party—upon the prosecution in a criminal trial—simultaneously erects, expressly or by necessary implication, a presumption against it. In criminal jurisprudence, this presumption manifests as the cardinal principle of the accused’s innocence, which

¹ (1947) 2 All ER 372

endures until displaced by legally admissible and unimpeachable evidence. Consequently, the prosecution is enjoined to prove, with scrupulous exactitude, every constituent element of the offence alleged. The anvil for testing what constitutes “proof of guilt” in a criminal trial has long since been authoritatively forged by the Hon’ble Apex Court. It has been observed by the Honourable Apex Court that:-

"If upon the evidence adduced in the case whether by the complainant 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."

36. In recent past, Hon’ble Supreme Court in Sachin Kumar Singhraha vs. State of Madhya Pradesh², has held that there cannot be any dispute as to the well settled proposition that the circumstances from which the conclusion of guilt is to be drawn must or “*should be*” and not merely “*may be*” fully established. In Latesh Versus State of Maharashtra³, the Hon’ble Supreme Court has observed:

“When you consider the facts, you have a reasonable doubt as to whether the matter is proved or whether it not a reasonable doubt in this sense. The reasonableness of doubt must be practical and not an abstract theoretical hypothesis. Reasonableness is a virtue that forms as mean between excessive caution and excessive indifference to a doubt.”

37. Judicial precedents on this point are so uniform, so copious, and so firmly entrenched that the maxim—*that no person may be visited with a conviction unless the charge is established beyond reasonable doubt*—has ripened into a near-axiomatic truth within the legal fraternity, rendering any exhaustive survey of authority on this score an exercise in futility.
38. Yet, the Hon’ble Supreme Court has, with equal sagacity, cautioned that the hallowed rule placing the burden of proof upon the prosecution must not be misconstrued as a fossilised or mechanical postulate, immune to the application of reason and judicial discernment. Indeed, the ultimate endeavour of a criminal trial is not the metaphysical pursuit of absolute truth; were it otherwise, the law

² AIR 2019 SC 1416

³ AIR 2018 SC 659

would neither countenance presumptions, nor reverse-onus clauses, nor insist upon the exacting standard of proof beyond reasonable doubt.

39. No doubt that there is an enormous difference between “*proof beyond all reasonable doubt*” and “*proof beyond reasonable doubt*” and this court has to dwell on this fine line of distinction and the person who is guilty, cannot get away with impunity only because truth may suffer some infirmity when projected through human processes as has been observed in Inder Singh and another Versus The State (Delhi Administration)⁴. Keeping in mind the aforesaid jurisprudential philosophy of criminal law, let this Court now examine the points for determination and eloquent facts of this case, with a deeper sense.
40. As incisively observed by Glanville Williams, the facile acquittal of the guilty inflicts a harm far graver than the escape of a solitary offender. When such acquittals become habitual, they breed public cynicism towards the rule of law, provoke demands for harsher presumptions, and ultimately usher in a more ferocious penal regime—one that imperils the judicial safeguards of the innocent. It is in this nuanced equilibrium that Viscount Simon’s timeless caution resonates: a miscarriage of justice may arise as much from the acquittal of the guilty as from the conviction of the innocent. Thus, the presumption of innocence, though sacrosanct, must be harmonised with the pragmatic necessity of rendering criminal justice effective and credible.
41. From the foregoing exposition, the contours of the task before this Court stand clearly delineated—what is required to be proved, by whom, and to what exacting degree. To answer these questions within the settled legal parameters, it now becomes imperative to advert to and scrutinise the evidence on record.

⁴ (1978) 4 SCC 161

Point Nos. A, B & C**K. DISCUSSION**

42. Let the evidence of PW-1, namely Kulsum Khatun, the victim, at whose instance the criminal law was set into motion, now be examined. PW1, namely Kulsum Khatun, deposed that her marriage with accused Mister Ali had been solemnized on 20.09.2013 in accordance with Muslim Shariat. It was stated by her that at the time of marriage, cash amounting to Rs.1,55,000/-, one vori of gold, and other articles customary to the occasion had been provided by her father to the accused persons. Subsequent to the marriage, her matrimonial life had commenced at her in-laws' residence and that from the very second day of the marriage, she had been subjected to physical and mental cruelty and that the marriage having been one of choice, wholehearted acceptance by her parents-in-law had not been accorded to her, and she had frequently been harassed and maltreated on trivial domestic issues and that such acts of cruelty had often been perpetrated by her husband at the instigation of his parents and that concerted efforts had been made to drive her out of the matrimonial home and that assaults had routinely been inflicted upon her by her mother-in-law, while no succour or intervention had been forthcoming from either her husband or father-in-law despite repeated grievances.
43. PW1 further stated that on 01.10.2013 poison had been forcibly administered to her by her husband and parents-in-law and that alarm had thereafter been raised by her, attracting the attention of neighbouring persons, whereupon she had been taken to Itahar Hospital by the accused persons and that owing to the precarious nature of her condition, she had subsequently been referred to Raiganj Hospital, where treatment as an indoor patient had been received for approximately two days before her discharge.
44. It was further testified that although a complaint had initially been intended to be lodged by her father against the accused persons, forgiveness had thereafter been sought by them and assurances had

allegedly been extended that no further cruelty would be inflicted upon her and that acting upon such assurances, she had been taken back to her matrimonial home, where peaceful cohabitation was stated to have continued for nearly six months.

45. According to PW1, upon her pregnancy becoming known to the accused persons, acts of cruelty had once again been resumed. It was alleged that assaults had been inflicted upon her by her husband and pressure had been exerted upon her to terminate the pregnancy. It was deposed that, in order to safeguard both her life and that of the unborn child, refuge had ultimately been taken at her paternal home, where a child had thereafter been born.

46. PW1 further stated that on 27.02.2015 she had proceeded to her matrimonial home along with her infant child and accompanied by members of her parental family. Upon arrival, it had allegedly been discovered that her husband had contracted a second marriage and that the second wife was residing in the matrimonial house. It was alleged that neither she nor her newborn child had been permitted entry into the said house by her husband. It was further deposed that on the very same day, Itahar Police Station had been approached by her and a written complaint had been lodged. According to her, the complaint had been scribed by one Majedur Rahaman as per her dictation, the contents thereof having been read over and explained to her before her signature was appended thereon. The written complaint was identified and marked as Ext.1, while her signature thereon was marked as Ext.1/1. PW1 lastly deposed that during the course of investigation, her marriage certificate, Mohorana document, and two marriage photographs had been seized by the Investigating Officer on 04.03.2015. The seizure list pertaining thereto was identified by her, and her signature appearing thereon was marked as Ext.2/1.

47. Now, turn to the evidence of PW2, Fasiur Rahaman, the father of the victim (PW2). PW-2, Faisur Rahaman, the father of PW-1, deposed that

the marriage of his daughter, Kulsum Khatun (PW-1), had been solemnized with accused Mister Ali about nine years prior in accordance with Muslim Shariat Law. It was further testified that, at the time of the marriage, cash amounting to Rs.1,55,000/- together with other articles constituting *dan samagri* had been given to the groom and that PW-1 had initially led a peaceful conjugal life for about one month at her matrimonial home, whereafter she had allegedly been subjected to both physical and mental cruelty at the hands of her husband and parents-in-law, namely Hamedur and Jyostna and that poison had once been forcibly administered to PW-1 by the accused persons, following which she had been taken to Itahar Hospital and thereafter shifted by her parental family to Raiganj Hospital, where she had remained under treatment for about six to seven days.

48. A material contradiction emerges from the evidence of PW-1 and PW-2 regarding the commencement of the alleged cruelty after the marriage solemnized on 20.09.2013. PW-1 categorically asserted that she had been subjected to torture from the very second day of her marriage and it was 01.10.2013 i.e; within 11 days of her marriage, when she was administered poison. In stark contrast, PW-2, her father, deposed that she had spent about one month in her matrimonial home in peace before any alleged ill-treatment began. These two versions are plainly irreconcilable and cannot be harmoniously construed. Since the contradiction pertains to the very genesis of the prosecution case, it cannot be brushed aside as a minor discrepancy. Faced with such divergent accounts from the star witness and her own father, this Court is unable to ascertain with certainty which version represents the truth. Consequently, the inconsistency casts a substantial shadow over the reliability of the prosecution narrative and must necessarily operate to the benefit of the accused.

49. PW2, further stated that, after her recovery, PW-1 had been brought back to her paternal home and that a complaint had subsequently been lodged before Itahar Police Station. It was deposed that, upon

police intervention and assurances from the accused persons that no further cruelty would be inflicted, PW-1 had been restored to her matrimonial home.

50. A further and significant infirmity surfaces in the prosecution narrative from the mutually discordant versions of PW-1 and PW-2 concerning the alleged complaint to Itahar Police Station. PW-2, in unequivocal terms, asserted that after the recovery of PW-1 from the alleged poisoning incident, a complaint had been lodged by him before Itahar Police Station after a lapse of about 15 to 20 days. Curiously, no such complaint has been brought on record, proved in evidence, or even satisfactorily accounted for by the prosecution. The conspicuous absence of this allegedly crucial document gives rise to an adverse inference against the prosecution case.
51. In sharp contradistinction, PW-1 deposed that although her father had intended to lodge a complaint, the same was ultimately not pursued owing to the assurances allegedly extended by the accused persons. Thus, while PW-2 spoke of an actual complaint having been lodged, PW-1 spoke only of an intention to lodge one which never materialised. These two versions stand in direct and irreconcilable conflict. The Court cannot be expected to choose one version over the other on mere conjecture or surmise. Such a contradiction strikes at the very credibility of the witnesses on a material aspect of the case. Consequently, this Court finds itself unable to repose confidence in either of the inconsistent accounts, and the benefit of such uncertainty must necessarily accrue to the accused.
52. PW2 further testified that, upon conceiving, PW-1 had again been subjected to assault, particularly by accused Mister Ali, allegedly with the use of a waist belt, compelling the witness to bring her back to her parental residence for her safety. According to him, PW-1 had thereafter delivered a child while residing at her paternal home. It was also deposed that, when the child was about one month old, PW-1 had

been taken back to her matrimonial home by the witness and certain local persons, but entry into the house had allegedly been refused by the accused persons, it being stated that accused Mister Ali had, in the meantime, contracted a second marriage. The witness stated that he had thereafter approached Itahar Police Station and made a further statement regarding the incident.

53. A further material contradiction is discernible in the testimonies of PW-1 and PW-2 concerning the age of the child at the time when PW-1 was allegedly taken back to her matrimonial home. PW-2 unequivocally deposed that when he, along with certain local persons, accompanied PW-1 to her matrimonial home, the child was merely one month old. PW-1, however, furnished an altogether different account by asserting that her child was then three months old. The discrepancy is neither insignificant nor capable of being lightly ignored, for it pertains to a specific event which, according to the prosecution, culminated in her alleged refusal of entry into the matrimonial home. When the principal witness and her father speak in discordant voices on such a material fact, the veracity of the prosecution narrative becomes clouded with uncertainty. This Court finds no satisfactory explanation for such divergence and is, therefore, constrained to hold that the inconsistency substantially erodes the credibility of the prosecution version on this aspect.

54. It needs no reiteration that in the ordinary course of human conduct and in consonance with the social conventions prevailing in our society, a married daughter is generally expected to repose her confidence first in her mother and to share with her the trials, tribulations, and adversities encountered within her matrimonial home. The mother, by reason of her intimate bond and natural affinity with her daughter, is ordinarily the first repository of such grievances and confidences. Consequently, any account of alleged matrimonial discord would, in the normal course of events, be expected to find its earliest reflection in the knowledge and testimony of the mother.

55. Having said these, let us come to the evidence of PW3, mother of the victim. PW-3, Salema Bibi, deposed that the marriage of her daughter had been solemnized with accused Mister Ali according to Muslim Shariat Law and that at the time of the marriage, cash amounting to Rs.1,55,000/- together with gold ornaments had been given to the family of the groom and that within about ten days of the marriage, PW-1 had been subjected to physical assault and cruelty by her husband, parents-in-law, brother-in-law and sisters-in-law, and poison had been administered to her. It was further deposed that, upon receiving information from neighbours, PW-1 had been brought by her parental family to Itahar Hospital and thereafter shifted to Raiganj Hospital for treatment.
56. In her testimony, PW-3 sought to enlarge the canvas of the prosecution case by alleging that the brothers-in-law and sisters-in-law of PW-1 had also participated in the infliction of cruelty upon her. Strikingly, no such allegation finds place in the testimony of PW-1 herself, nor was any such accusation levelled by PW-2. Equally conspicuous is the absence of any whisper to that effect in the written complaint which set the criminal law in motion. Such an embellishment, introduced for the first time during the deposition of PW-3, stands bereft of corroboration from the other prosecution witnesses and the contemporaneous complaint. The omission assumes considerable significance, for had such persons truly been participants in the alleged acts of torture, their involvement would ordinarily have found mention at the earliest available opportunity. The belated introduction of these allegations, therefore, renders this part of the testimony of PW-3 highly doubtful and detracts from its evidentiary worth.
57. PW3 further stated that assurances had subsequently been extended by Hamedur Rahaman that no further torture would be inflicted upon PW-1, whereafter a village *salishi sabha* had been convened and PW-1 had been sent back to her matrimonial home. It was also testified that, within about six months thereafter, PW-1 had conceived, but was

again allegedly assaulted by her husband with a belt with the intention of causing harm to the unborn child. Consequently, PW-1 had been brought back to her parental home, where she subsequently gave birth to a child. According to the witness, about five months after the birth of the child, PW-1 and her baby had been taken to her matrimonial home, but entry had been refused by the accused persons. It was further stated that a complaint had thereafter been lodged at Itahar Police Station. The witness finally admitted that she had never personally seen the accused persons.

58. PW-2 and PW-3 endeavoured to impress upon this Court that, following the alleged poisoning incident, they had proceeded to the matrimonial home of PW-1 and had themselves taken her for medical treatment at Itahar hospital. However, PW-1, both in her substantive evidence before the Court and in the written complaint forming the genesis of the prosecution case, unequivocally asserted that it was the accused persons who had taken her to Itahar Hospital immediately after the incident. Thus, on a matter of considerable significance, the testimonies of PW-2 and PW-3 stand in direct contradiction to the version furnished by PW-1 herself.

59. This inconsistency cannot be relegated to the realm of a minor discrepancy, for it concerns the conduct of the parties immediately after the alleged administration of poison. The contradiction assumes greater significance when viewed in the light of ordinary human conduct. If the prosecution version is to be accepted in its entirety, it would require this Court to believe that the very persons who had allegedly administered poison to PW-1 thereafter took prompt steps to secure medical treatment for her by shifting her to a hospital. Such conduct appears inherently incongruous and runs counter to the normal probabilities of human behaviour. While no universal rule can be laid down regarding human reactions in extraordinary circumstances, the Court cannot remain oblivious to the fact that the conduct attributed to the accused, even assuming the prosecution

version as true, appears inconsistent with the allegation that they had intended to cause death to the victim by poisoning her.

60. In the face of these material contradictions and improbabilities, the prosecution version on this aspect becomes shrouded in considerable doubt, thereby rendering it unsafe to place implicit reliance thereon.
61. A most startling feature of the evidence of PW-3 emerges from the concluding part of her deposition, wherein she candidly admitted that she had never seen the accused persons. This assertion strikes at the very root of her earlier assertions, for throughout her testimony she purported to attribute specific acts of cruelty, assault, administration of poison, and other overt acts to the accused persons and their family members. If, indeed, the accused persons had never been seen by her, the source of her knowledge regarding their alleged involvement remains shrouded in mystery.
62. The incongruity becomes all the more pronounced when one considers that PW-3 was not a stranger to the matrimonial relationship in question, but the mother of the alleged victim. Ordinarily, a mother who claims to have intervened in her daughter's matrimonial discord, participated in efforts to bring her back from her matrimonial home, attended meetings for settlement, and accompanied her daughter on subsequent occasions, would be expected to possess at least a basic acquaintance with the persons against whom such grave allegations are levelled. Her assertion that she had never seen the accused persons, therefore, renders her testimony inherently perplexing and difficult to reconcile with the narrative sought to be projected by the prosecution.
63. This admission also casts a long shadow upon the reliability of the allegations attributed to the accused persons. If PW-3 had no personal acquaintance with the accused, her testimony regarding their alleged acts can only be regarded as derivative in nature, resting not upon her own perception but upon information received from others.

Consequently, her evidence ceases to be a direct account of events and assumes the character of a second-hand narration lacking independent evidentiary value.

64. Viewed in conjunction with the inconsistencies already noticed in the testimonies of PW-1 and PW-3, this startling assertion generates a serious cloud of doubt as to the exact nature and extent of the allegations sought to be advanced against the accused persons. It leaves this Court uncertain as to whether the witnesses were speaking from personal knowledge or merely reproducing a narrative gathered from external sources. Such uncertainty inevitably undermines the probative force of their evidence and compels the Court to approach the allegations against the accused with the utmost circumspection.
65. Bouli Bibi (PW-4) and Khatija Bibi (PW-5), both being neighbours of the accused persons, were examined by the prosecution in what appears to have been a routine endeavour to lend support to its case. However, neither of these witnesses was able to shed any meaningful light upon the allegations forming the substratum of the prosecution case. Their testimonies remained conspicuously barren of any incriminating circumstance against the accused persons.
66. Finding their evidence unsupportive of the prosecution narrative, both witnesses were declared hostile and permission was granted to the Learned PP-in-Charge to cross-examine them. Yet, notwithstanding such cross-examination, nothing substantial could be elicited which would either advance the prosecution case or impeach the credibility of the witnesses. No material contradiction, omission, or circumstance emerged from their cross-examination so as to justify discarding their testimony in toto. Consequently, their evidence does not furnish any corroboration to the prosecution case and remains largely neutral in its evidentiary effect.
68. The medical evidence adduced through PW-6, Dr. Biswajit Goswami, assumes considerable significance in the factual matrix of the present

case. The witness, who attended PW-1 on 01.10.2013 at Itahar Rural Hospital, proved the injury report (Exhibit-3) prepared by him in the ordinary course of his professional duties. It was deposed by PW-6 that, at the time of examination, the history furnished by the patient party was one of *ingestion of poisonous material*. Significantly, Exhibit-3 records that PW-1 had been brought to the hospital by accused No. A1 himself. This contemporaneous medical document, prepared at the earliest point of time, stands in stark contrast to the assertions of PW-2 and PW-3, who sought to persuade the Court that it was they who had attended upon PW-1 and taken her for medical treatment.

69. Equally noteworthy is the fact that Exhibit-3 speaks merely of the *ingestion of poisonous material* and not of the *forcible administration of poison* by any person. It is true that, since accused No. A1 is shown in the document as the person who brought PW-1 to the hospital, the absence of any allegation against him or his family members in the medical record may not, by itself, be decisive. Nevertheless, the Court cannot remain oblivious to the fact that, if PW-2 and PW-3 had indeed attended upon PW-1 at the hospital, as they claimed during their depositions, nothing prevented them from disclosing to the attending doctor that poison had allegedly been administered to her by the accused persons. The silence of the medical record on such a vital aspect assumes considerable importance and cannot be brushed aside lightly.

70. The matter does not rest there. According to the prosecution itself, PW-1 was subsequently referred to and admitted at Raiganj Hospital, where she allegedly remained under treatment for few days. Surprisingly, not a single medical document from Raiganj Hospital has been brought before the Court. No admission record, treatment sheet, discharge certificate, prescription, or medical opinion has been produced to substantiate the prosecution's allegation of forcible poisoning. The non-production of these vital documents is both conspicuous and disturbing.

71. When the best available evidence is withheld without any satisfactory explanation, the Court is entitled to draw an adverse inference. Had the records from Raiganj Hospital supported the prosecution version, there was no conceivable reason for their suppression. Their absence inevitably gives rise to a legitimate doubt as to whether those records were consistent with the prosecution narrative at all. The Court is left wondering whether the withheld documents would have disclosed a version unfavourable to the prosecution and whether an attempt was made to keep such material beyond the scrutiny of the Court.
72. In criminal trials, where the burden lies squarely upon the prosecution to establish its case beyond reasonable doubt, the withholding of the most crucial medical evidence pertaining to the alleged poisoning incident strikes a fatal blow to its credibility. The contemporaneous medical record at Itahar Rural Hospital does not support the allegation of forcible administration of poison, while the subsequent records from Raiganj Hospital have been withheld altogether. These circumstances, viewed cumulatively, create a grave and insurmountable doubt regarding the truthfulness of the prosecution's allegation of poisoning and render the charge far too fragile to withstand the rigorous standard of proof demanded by criminal law.
73. A further disturbing feature of the prosecution case emerges from the testimony of PW-7, SI Paran Mondal, the Investigating Officer. In his examination-in-chief, the witness asserted that he had visited the place of occurrence situated at Patnuliaghat. This statement assumes significance because, according to the consistent case of the prosecution, the matrimonial home of the accused persons, where the alleged incidents were stated to have occurred, is situated at Patnolia Village.
74. At first blush, the discrepancy might have been dismissed as a mere clerical or typographical error. However, such a possibility stands effectively ruled out by the subsequent testimony of the witness

himself. During cross-examination, when PW-7 was specifically asked to disclose the distance between Patnolia Village and Patnuliaghat village, he did not state that both names referred to one and the same place. Instead, he answered that he did not know the distance between the two locations. Such an answer unmistakably suggests that the witness understood Patnolia and Patnuliaghat to be distinct places and not different descriptions of a single village.

75. This aspect assumes considerable importance because the very purpose of a local inspection by the Investigating Officer is to acquaint himself with the actual place of occurrence and to collect evidence from the correct location. If the Investigating Officer himself remains uncertain about the situs of the alleged occurrence, the foundation of the investigation becomes inherently shaky. The Court is, therefore, confronted with a serious ambiguity as to whether the place inspected by the Investigating Officer was, in fact, the place where the alleged incidents were stated to have occurred.
76. The evidence of PW-7 thus reveals a stark and unexplained divergence regarding the locus of occurrence. Such uncertainty cannot be lightly brushed aside, for the identity of the place of occurrence constitutes a fundamental component of the prosecution case. The inability of the Investigating Officer to furnish a coherent and consistent account in this regard casts a substantial shadow over the fairness and reliability of the investigation and further weakens the already fragile fabric of the prosecution case.
77. It is trite that matrimonial cruelty, by its very nature, may assume the character of a continuing offence. In the case at hand, the prosecution has attempted to portray three distinct phases of alleged cruelty: the first extending from the inception of the matrimonial relationship until the alleged poisoning incident of 01.10.2013; the second commencing upon the alleged restoration of conjugal life following alleged assurances purportedly tendered by the accused persons; and the

third culminating in the events of 27.02.2015, which ultimately set the criminal law into motion.

- 78.** Yet, upon a careful and penetrating scrutiny of the evidence, the Court finds that each of these phases is afflicted with evidentiary frailties of a substantial nature. In Ext.1, the written complaint, a categorical allegation was levelled that on 27.02.2015 the accused persons not only denied entry to PW1 into her matrimonial home but also subjected her to verbal abuse in filthy language. Curiously, when PW1 entered the witness box and deposed on oath, no whisper was made regarding any such abusive conduct. Her testimony was confined to the assertion that she had found the second wife of accused no. A1 residing in the matrimonial home. Thus, the very incident which ostensibly furnished the immediate cause for lodging the complaint remains unsupported by the testimony of the complainant herself.
- 79.** Equally fragile appears the prosecution case concerning the first phase of the alleged cruelty. Though a grave and alarming accusation of forcible administration of poison was levelled against the accused persons, the prosecution conspicuously failed to place before the Court the best evidence that the nature of such an allegation inexorably demanded. Neither the medical records pertaining to the alleged treatment of PW1 at Raiganj Hospital nor any reliable documentary or oral evidence regarding the purported intervention of local elders and the consequent reconciliation was adduced. These omissions assume profound significance when weighed against the enormity of the accusation itself. The Court is thus confronted not with a coherent body of corroborative evidence, but with a bare narrative standing substantially unsupported by those materials which, in the ordinary course of human conduct and investigation, would reasonably have been expected to exist and be produced.
- 80.** What further deepens the cloud of doubt hovering over this segment of the prosecution case is the unexplained and inordinate delay in setting

the criminal law into motion. The alleged poisoning is stated to have occurred on 01.10.2013, yet the complaint came to be lodged only on 27.02.2015, after the lapse of well over a year. Not only has no satisfactory explanation been forthcoming for such prolonged silence, but no earnest endeavour was even made by the prosecution to dispel the suspicion naturally arising therefrom. While delay, by itself, may not invariably prove fatal to a prosecution, where the accusation is of so grave a character and the supporting evidence is otherwise deficient, such unexplained inaction assumes considerable evidentiary importance. Existence of assurance by the accused persons over a *salish* appears to be a mere *ipse-dixit*. The prolonged dormancy of the grievance, coupled with the absence of contemporaneous records and independent corroboration, renders the prosecution version vulnerable to serious doubt and substantially erodes its probative worth.

81. The second phase of alleged cruelty stands on even weaker footing. Save and except broad and omnibus allegations, not an iota of dependable evidence has emerged to demonstrate any specific act of cruelty during that period. On the contrary, material inconsistencies have surfaced amongst the prosecution witnesses themselves. While PW2 and PW3 sought to embellish the prosecution version by alleging that PW1 had been assaulted with a waist belt by accused no. A1, PW1 remained conspicuously silent on this aspect, not only in her written complaint but also in her deposition before the Court. Such omissions cannot be lightly brushed aside, for they strike at the authenticity of the prosecution narrative and expose the tendency of improvement by supporting witnesses.

82. This apart, the evidence adduced by the prosecution remains remarkably silent as to what prevented PW1 or her parental relations from approaching the law-enforcement machinery immediately upon the occurrence of the alleged acts of cruelty during the second phase of matrimonial life. No circumstance has been brought on record to explain the apparent inaction, nor has any cogent reason been

assigned for the conspicuous absence of a contemporaneous complaint despite the allegation of continuing harassment. The evidentiary void in this regard assumes significance, for the prosecution has sought to portray the alleged acts of cruelty as grave and persistent in nature. Yet, neither the conduct of PW1 nor that of her parental relations has been illuminated by any explanation capable of reconciling such allegations with the prolonged silence that followed. This unexplained omission constitutes yet another infirmity in the prosecution case and adds to the cumulative doubt already enveloping the veracity and reliability of the accusations.

83. Criminal jurisprudence does not permit a conviction to be founded upon conjectures, assumptions, or sentimental surmises. Suspicion, however grave, can never be permitted to substitute legal proof. The evidence adduced by the prosecution, when tested on the anvil of consistency, probability, and reliability, falls short of the exacting standard of proof beyond reasonable doubt. The chain sought to be forged by the prosecution is found to be punctuated by missing links, material omissions, and unexplained inconsistencies. In such circumstances, the prosecution must be held to have failed in discharging the solemn burden cast upon it by law. Consequently, this Court is constrained to hold that the charges levelled against the accused persons have not travelled from the realm of allegation into the domain of proof. The benefit of doubt, which is not a matter of charity but a substantive safeguard ingrained in criminal jurisprudence, must therefore enure to the accused persons.

84. In Latesh vs. State of Maharashtra (supra), the Hon'ble Supreme Court has observed:

“When you consider the facts, you have a reasonable doubt as to whether the matter is proved or whether it not a reasonable doubt in this sense. The reasonableness of doubt must be practical and not an abstract theoretical hypothesis. Reasonableness is a virtue that forms a mean between excessive caution and excessive indifference to a doubt.”

85. Recently the Hon'ble Supreme Court in Sachin Kumar Singhraha vs.

State of Madhya Pradesh⁵, has held that there cannot be any dispute as to the well settled proposition that the circumstances from which the conclusion of guilt is to be drawn must or “should be” and not merely “may be” fully established.

L. DECISION

86. Upon a comprehensive, calm, and judicial appraisal of the entire evidentiary mosaic, and after extending the most anxious, scrupulous, and deliberate consideration to the rival submissions advanced with industry by the Learned Counsel on either side, this Court is driven to the inescapable conclusion that the prosecution has failed to discharge the heavy and indivisible burden cast upon it by law. The investigation, marked by conspicuous omissions, procedural infirmities, and an unsettling lack of evidentiary coherence, has left gaping fissures in the prosecution narrative. These lapses are not of a peripheral or curable nature; they strike at the very core of the case and render the prosecution version unsafe for acceptance. In consequence, the prosecution has been wholly unable to dislodge the enduring presumption of innocence, that cardinal and inviolable safeguard which lies at the heart of criminal jurisprudence and cloaks the accused with its just and humane protection until guilt is proved beyond all reasonable doubt.
87. The inevitable sequitur of such investigative and prosecutorial failure is both plain and unavoidable. Fidelity to the settled canons of criminal adjudication admits of no alternative but to extend the benefit of doubt to the accused. Accordingly, and in obedience to the mandate of law rather than any indulgence of sympathy, the accused persons, namely A1, A2 and A3, stand entitled to an honourable acquittal, the prosecution having fallen lamentably short of the exacting and uncompromising standard of proof requisite for sustaining a conviction. The order of acquittal is, therefore, recorded and pronounced.

⁵ AIR 2019 SC 1416

M. EPILOGUE

88. In result, the case of the prosecution sinks.

89. Hence, it is

ORDERED

that the accused persons, namely; **Mister Ali, Hamedur Rahaman @ Banka and Sayeda Bibi @ Jyostna** found not guilty for the offence punishable under **Section 498A/307/34 of Indian Penal Code.**

They are acquitted from this case in terms of Section 235 Cr.P.C.

All the accused persons are on bail. The bail bonds furnished by the accused persons at the time of releasing on bail in this case shall be converted to their bonds in terms of Section 437A Cr.P.C., to secure their appearance before the Hon’ble High Court, Calcutta in an appeal, if any, to be preferred by the State against this judgment of acquittal and the said bonds shall remain valid for 06 (six) months next.

Dictated and corrected

1st ADJ, Special Court (NDPS Act)
Raiganj, Uttar Dinajpur

1st ADJ, Special Court (NDPS Act)
Raiganj, Uttar Dinajpur

Form M 35

As per the amendment made in the **Calcutta High Court Criminal (Subordinate Courts) Rules, 1985**, vide Notification No. 2301-G dated July 15, 2022.

Events	Date(s)
Date of offence	20.09.2013 onwards
Date of lodgment of FIR	03.03.2015 (Itahar PS Case No. 65 of 2015 dated 03.03.2015)
Date of submission of original charge-sheet	30.04.20125 (Itahar Police Station Charge-sheet no. 150 of 2015 dated 30.04.2015)
Date of submission of supplementary charge-sheet	NIL
Date of framing of charge	21.04.2022
Date of commencement of evidence	02.12.2022
Date on which the judgment is reserved	NIL
Date of delivery of judgment	18.06.2026
Date of order of awarding sentence, if any.	Not Applicable

Accused details :

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted on convicted	Sentence awarded	Period of detention undergone during Trial for the purpose of Section 428 Cr.P.C.
A1	Mister Ali	04.03.2015	20.05.2015	U/S 498A/307/34 IPC	Acquitted	NA	NA
A2	Hamedur Rahaman @ Banka	15.04.2015	13.05.2015				
A3	Sayed Bibi @ Jyostna	Not arrested	23.06.2015				

Dictated and corrected

1st ADJ, Special Court (NDPS Act)
Raiganj, Uttar Dinajpur

1st ADJ, Special Court (NDPS Act)
Raiganj, Uttar Dinajpur