



IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRA 14 OF 2004

RANJIT SAHA

VS

THE STATE OF WEST BENGAL & ANR.

For the Appellants : Mr. Dipankar Aditya, Adv.
Mr. Bidyut Baran Biswas, Adv.
Ms. Aishwarya Priya Laha, Adv.

For the State : Mr. Avishek Sinha, Adv.

Last heard on : 13.11.2025

Judgement on : 24.11.2025

Uploaded on : 24.11.2025

CHAITALI CHATTERJEE DAS, J. :-

1. This criminal appeal has been filed challenging an order of conviction dated December 6, 2003 passed by the Learned Additional Sessions Judge, 4th Court Nadia under Section 498-A of the Indian Penal /code and sentencing each of them to undergo R/I for 2 years and to pay a fine of Rs. 5000 each in default to undergo further R/I for 6 months each.

Fact of the case

2. A complaint was lodged before the Officer-in-charge of police Bethuadahari, Nadia by the brother of the deceased victim against the present appellants



alleging inter alia that his sister was given marriage with Biswajit Saha about 1 and ½ years ago and she was subjected to torture by the present appellants being the mother-in-law and the brother-in-law. It was further alleged that on December 27, 2000 they set his sister ablaze putting her inside the bathroom after closing the door. On the basis of such complaint Nakasipara P.S. case no. 209 of 2000 dated December 28, 2000 started under Section 498-A/304 B of the Indian Penal Code. On completion of investigation the charge-sheet was submitted against the present appellants under the aforesaid Sections and after commitment the matter was transferred before the Learned Additional Sessions Judge 4th Court Nadia for disposal since the charges were sessions triable. The Learned Court after hearing the parties framed the charges under Section 498-A and 304-B against the appellant and the contents of the same was read over and explain to them to which they pleaded not guilty and claimed to be tried. Hence the trial commenced.

3. The Learned Trial Court after considering the evidence adduced before the Learned Court by the prosecution witnesses and the documents exhibited before the Learned Court and also considering the submissions made on behalf of the prosecution as well as the defence counsel passed the judgement of conviction against the present appellant under Section 498-A of Indian Penal Code. However they were found not guilty by the Learned Court in respect of the charge under Section 304-B of the Indian Penal Code and were acquitted from the said charge. Being aggrieved thereby this appeal has been filed before this court for setting aside such order of conviction.



Submissions

4. The Learned Advocate appearing on behalf of the petitioner would submit that the prosecution miserably failed to prove the charge under Section 304-B before the Learned Court and accordingly the order of acquittal was passed by the Learned Court and despite such order of acquittal, passed the order of conviction under Section 498-A of Indian Penal Code when there was no cogent evidence on record against the accused/appellants and the judgement is based on surmises and conjectures. Further argued that though allegations were levelled against other accused persons they have not arraigned as an accused persons. The talk of settlement was between the husband of the victim as stated by the de-facto complainant but the husband was not made an accused person.
5. P.W. 7/Doctor deposed that the death seems to be suicidal in nature but to be confirmed by other circumstantial evidence and the prosecution failed to lead any circumstantial evidence to prove that death of the victim was suicidal. The Learned Court was of clear opinion that the prosecution has not been able to prove that there were any ingredient to attract Section 306 of the Indian Penal Code. Therefore, nothing was proved before the Court that there was any demand of dowry on behalf of the present appellants or the other family members and or due to non-payment of such dowry she was inflicted with physical and mental torture. No independent witness has supported the prosecution case and the neighbours turned hostile. P.W. 11 said she set her ablazed .P.W 3 did not say anything about demand of dowry.
6. It is further argued that when the Learned Court did not accept the contention of the prosecution that the offence was committed under Section



304-B of the Indian Penal Code and also was of the view that no adequate materials were produced to attract the ingredients to punish for the offence committed under Section 306 of the Indian Penal Code. Therefore the demand raised for dowry was not proved and also that the accused bated her to commit suicide .So further question of passing an order of conviction under Section 498-A of Indian Penal Code on surmise and conjecture cannot be sustained. Accordingly prays for acquittal.

7. The learned prosecution on the other hand raises vehement objection. It is submitted that the complaint was lodged by the brother of the victim which was corroborated by other brothers. It is a fact that the local witnesses turned hostile however that is not sufficient to show that no torture was inflicted upon the deceased victim. Accordingly prays for dismissal of the appeal.

Analysis

8. On careful perusal of the entire materials on record and on the basis of the considering the submissions advanced by the Learned Defence Counsel presenting the appellants and the prosecution the moot question now falls for consideration as to whether the Learned Court was right in passing the order of conviction under Section 498-A of the Indian Penal Code when the charge under Section 304-B of the Indian Penal Code was not proved.
9. In order to bring home the charges the prosecution adduced as many as 12 witnesses out of whom the P.W.1 Gobinda Saha is the de-facto complainant and brother, P.W. 2 Shibani Saha is the elder sister of the deceased victim. P.W. 3 is the brother of the deceased victim. P.W. 4, 5, 6 are the neighbours of the present appellant. P.W.7 is the autopsy surgeon who proved the post mortem report. P.W. 8, 9, 11 and 12 are the police personnel and P.W. 10



Subrata Bhattacharjee is the scribe of the written complaint. The evidence adduced by the de-facto complainant manifest that during the marriage a cash of Rs. 35,000 along with gold ornaments, furniture beddings, utensils etc. were given during the time of marriage of his sister and after marriage she lived at her matrimonial home and about 6 months they lived there without any complaint but she was subjected to both physical and mental torture on account of demand of dowry. The evidence would further disclose that the victim declined to go back to her matrimonial home but the de-facto complainant and others took her back to the matrimonial home and on $\frac{3}{4}$ occasions this situation occurs. Lastly, she came to their house one month prior to the death and vehemently refused to return to her matrimonial home as she was inflicted with torture but the de-facto complainant along with his mother took her to her matrimonial home and a talk of settlement was raised and the present de-facto complainant assured the husband to fulfil their demand by paying Rs. 20,000 within a year but after one month the unfortunate incident happened as he got information from the local villagers.

- 10.** The witness failed to give any specific dates on which his sister return back to the paternal house or on which dates or month or year the de-facto complainant took her to the matrimonial home. That apart it is clear from his evidence that despite complaint were lodged by the victim girl of receiving torture by her in laws the present de-facto complainant or the mother never lodged any complaint against any of the person of the matrimonial home. It further transpires that lastly when they alleged to have returned her back to her matrimonial home after one month such information was received regarding death of the victim therefore during this period of one month it can



be found there was no communication between the de-facto complainant and or the family members with the deceased victim. The de-facto complainant came to know about the death of his sister from one Nepal Saha a local villager but said by the Nepal Saha has not been cited as the prosecution witness. It further reveals from the cross-examination of that witness that when the de-facto complainant and other brothers some local people went to the police station they found the husband of the deceased and his father putting signatures in the hospital record for the purpose of taking delivery of his sister.

11. The evidence of P.W. 2 the elder sister of the victim reveals that she got married long back from the marriage of her sister and she came to learn from her mother about the complaint of her sister against the accused persons of demanding further dowry and also to inflict torture upon her. She also came to learn that her brother and mother used to make her understand and manage to take her to her matrimonial home. She further came to learn from her mother that the present appellant inflicted torture upon her but despite having knowledge about the same from her mother this witness never ask the husband to stop such torture. According to her evidence her sister spent 5 to 6 months at her matrimonial home without having any disturbance. Therefore from this evidence prima facie there remains no doubt that the two sisters hardly had any spoken terms and during this entire period of one and half years this witness came to learn about any torture from her sister and she learnt from the mother.

12. The other brother Babu Saha/scribe deposed as P.W. 3 and deposed that since after 6 months of her marriage the brother-in-law and the mother-in-law demanded more money and he also reiterated the statement made by the P.W.



1 that on several occasions the victim came to the paternal house ,informed them about the torture informed upon her but they always tried to pacify her and expressed their inability to fulfil the demand at that point of time. It can be found from his evidence that one month prior to her death the deceased expressed that she will not return to her matrimonial home as they will kill her. After that his mother and brother went to their house along with the victim and settled the dispute by assuring them that the payment will be made after one year. So this evidence further reveals that despite having knowledge that their sister's life will be at stake the mother and the brothers never bother to go before the police station or to inform any other authorities rather compelled the said victim to return to her matrimonial home.

13. This witness was informed over Telephone by one Nepal Saha that her sister caught fire of burn of gas cylinder. No specific date or month as to when such torture was inflicted or when the said deceased came to the paternal house and expressed her unwillingness to return to matrimonial home can be found from the fore corners of his evidence. Nothing has come to show the date or month when the talk of settlement was there between the brothers along with the appellants.

14. The three local witnesses being P.W. 4, 5& 6 the next door neighbour of the appellants deposed that on hearing shouting they went to their house and found the victim lying in burnt condition and local villagers pouring water. None of the family members of the present appellant were present at the house at that point of time. They took her to Bethuadouri Health Centre where from she was taken to Shaktinagar Hospital. These three witnesses further deposed that they never found the appellant or the husband of the family members to



ill-treat the victim. These witnesses were declared as hostile on the prayer made by the prosecution. In the cross-examination by the defence P.W. 4 Bankim Sardar said that they had visiting term with each other's house and he saw the victim lying in front of kitchen. He heard that the husband and brother Ranjit went to haat and their father went to Bazar and mother went to see her brother at Saha Para about the 10 minutes walking away from the house of accused. This witness further deposed that on asking the victim informed the incident happened from gas cylinder and before the hospital also she said the same. After that they informed the accused persons and the husband and then they went to Shaktinagar Hospital. P.W. 6 did not reveal how the victim was treated at her matrimonial home and or about any incident occurred as alleged. P.W. 6 Soma Sarkar also was declared hostile as she also could not say about treatment of the victim at her matrimonial home.

15. The nature of injury sustained by the victim can be found from the evidence P.W. 7 Dr. Ajit Kr. Biswas and according to him the death was due to shock as a result of extensive burn on the body which was ante mortem and seems to be suicidal in nature ,however to be confirmed by other circumstantial evidence. The inquest of the dead body was conducted by P.W. 8 A.S.I. Sridam Bera it reveals that the body was found in front of the toilet of the residential house and kerosene was used for committing suicide and the reason assigned as the marital discord but nothing could be gathered from the evidence of any of the prosecution witnesses .The I.O did not seize any article to substantiate use of kerosin . The P.M report is also silent in this regard.

16. The Learned Trial Court has acquitted the present appellant from the charge framed under Section 304-B which relates to dowry death hence the question



regarding the cause of death on account of demand of dowry becomes otiose at this point of time. The key aspect of section 498A IPC is that a married woman is subjected to cruelty which drive the woman to commit suicide or to cause grave injury or danger to life or limb and where any harassment with a view to coercing her to any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure to meet such demand. It is therefore only to be ascertained as to whether any ingredients to attract section 498-A was found to be proved beyond reasonable doubt by the prosecution or not.

17. The other brother deposed as P.W. 11 Sibu Saha from whose evidence it transpires that after one year of such marriage they got the information when his sister set herself ablaze at the matrimonial home and she was taken to hospital where she died. The most interesting fact found from his evidence that his marriage was solemnised on 27th May, 2003 and his brother Bapon went to invite the family of the accused persons for his marriage. When they have alleged such a gruesome act committed by the accused persons only on 28th of December, 2000 how they can invite the accused persons to attend the marriage on 27th May, 2003. The conduct on the part of the family members of the deceased clearly manifest no inimical relationship existed between the parties.

18. The incriminating materials were placed before the accused persons who denied such allegations as levelled against them and cited two witnesses on their behalf. D.W. 1 Ranjit Barman whose house is after 5/6 buildings from the house of the accused person and he deposed that the deceased victim being the wife of Biswajit Saha and a close friend of this witness ,never



complained against the accused persons .According to his evidence she died due to severe burn injuries sustained while cooking meals and at the material time he was in his house and he went to the house of Biswajit when found local people pouring water on the wife of Biswajit. All these witnesses also corroborated the evidence adduced by the other neighbours and that brother Ranjit were in the haat at the relevant time which was at Meerdi Bazar. The mother went to her paternal home at Sahapara and they informed the accused persons and the husband and took the victim to the hospital this witness was examined by the I.O. over the incident. The Learned Court observed that the life of a women in the family of the husband sometimes become intolerable or miserable that drives the women towards suicide and in such case Section 498-A comes into play. The Learned Court however was of clear view that no such evidence was adduced which can attract the ingredients to the offence committed under Section 306 IPC.

19. In order to pass an order of conviction it is the bounden duty of the prosecution to prove the case beyond the shadow of all the reasonable doubt and if in any such circumstances where any doubt arises in the mind of the court regarding the commission of offence by the accused persons in the manner and mode,the Court must not pass an order of conviction unless it is proved beyond the shadow of all reasonable doubt. In the instant case from close scrutiny of the evidences adduced before the Court severe discrepancies are found which certainly creates cloud in the mind of this Court regarding commission of any such offence under Section 498-A of IPC though fact remains that the victim lady has to succumb to death with 100% burn injuries within 1 and ½ years from the date of marriage at the house of the accused



persons. The presence of the husband and other in laws at the hospital immediately when the body was taken to the hospital as found from the evidence of the witnesses differs from the evidence adduced by the de-facto complainant. Even if for the sake of argument the contents of the complaint and the evidence adduced by the de-facto complainant is considered it would manifest that despite having full knowledge about the torture inflicted upon their sister they did not take any such steps to prevent the same. The deviations can be found from the evidence of the brothers when P.W. 1 , 2 and 3 deposed that after their sister went back to the matrimonial home the incident happened one month after such incident and P.W.11 on the other hand deposed that after one year he came to learn about the death of her sister. There was no communication between the sisters and mother and she came to learn about the torture only from her mother .Therefore though the unfortunate incident happened on the relevant day when a married lady suffered severe burn injuries and succumbed to death no unambiguous conclusion can be arrived at that she was subjected to cruelty by her inlaws which was the cause of such death. No allegation was levelled against the husband and the prosecution did not examine him as a witness who would have otherwise been the best person to narrate the entire situation.

- 20.** It is time and again reiterated by the Hon'ble Supreme Court that there should be a clear allegation against relatives of the husband and vague and omnibus allegation would not be sufficient to compel them to undergo agony of the trial absence of any such concrete allegation weakens the prosecution case .

**Conclusion**

- 21.** Therefore in the light of the above discussions this Court is unable to concur with the order of conviction passed by the Learned trial Court against the present accused persons and specific over take can be depose against them in order to show that therefore torture inflicted upon present accused persons demand of dowry.
- 22.** Accordingly the instant appeal stands allowed.
- 23.** The judgement and order of conviction passed by the learned trial Court is hereby set aside. The appellant is discharged from the bail bond. All connected applications stands disposed of.
- 24.** Let a copy of this order along with the Trial court records be sent to the concerned court for necessary compliance
- 25.** Urgent certified copy if applied by any of the parties to be supplied subject to observance of all formalities

(CHAITALI CHATTERJEE DAS, J.)