

DISTRICT
Murshidabad

IN THE COURT OF ASSISTANT SESSION'S JUDGE
KANDI, MURSHIDABAD.

Present- Shri Pabitra Sen.
Assistant Session's Judge.
Kandi, Murshidabad.

Reference-Sessions. Sl. 167 of 2018 [S.T No. 08(07)2018]
(Registration No. S.T-167 of 2018)

[Arising out of Burwan P.S Case No. 530 of 2013]

State

vs

Hasib Sk. and five others.

.....Accused persons

Counsels

Bozle Haque..... Learned Counsel for the State

Babar Sk & Ors.Learned Counsel for the accused persons

Judgment Reserved on : January 07, 2019

Judgment Delivered on: January 07, 2019

JUDGMENT AND ORDER (ORAL)

Author :- Shri Pabitra Sen

The prosecution case in short, is that, on 19.12.2008 the marriage in between victim Sonali Khatun and Babar Sk. was solemnized as per Muslim rites and customs. After marriage, Sonali Khatun went to her matrimonial home and -

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resided there with her inmate members including her husband. At the time of her marriage, her father gave Rs. 1,50,000/- and seven varieties of gold ornaments to the accused persons. During conjugal life, a daughter was born out of wedlock between the de-facto complainant and the accused no.1, her husband. After few days of her marriage, she was subjected to torture by her inmate members both mentally and physically on the demand of more money. On 06.12.2013 at or about 3 p.m in the noon, the accused persons caused hurt her by means of fist and blows and also tried to kill her by throttling her with a 'gamcha'. Somehow, she managed to rescue herself and she was admitted to Burwan BPHC.

After completion of investigation, the Investigation Officer submitted charge sheet against the accused persons for the commission of offences punishable under Sections 498A, 323, 307, Indian Penal Code read with Section 34, Indian Penal Code and 3/4 D.P Act.

Charge was framed against the accused persons for the commission of offences punishable under Sections 498A, 307, Indian Penal Code read with Section 34, Indian Penal Code. Said charge was read over and explained to the accused persons in their own languages i.e., in Bengali to which they have pleaded not guilty and claimed to be tried.

The accused persons were examined under Section 313, Cr.P.C. They denied the allegations made against them by the witnesses. They declined to adduce evidences in support of their case.

I propose to decide as to whether the accused persons have committed offences punishable under Sections 498A, 307, Indian Penal Code read with Section 34, Indian Penal Code and whether the prosecution has able to prove its case beyond all sorts of reasonable doubts.

The prosecution has examined only two witnesses. The defence examined none.

Appreciation of evidence :- Initially, the prosecution has been examined as many as five witnesses including the *de-facto* complainant, the father of the *de-facto* complainant and the mother of the *de-facto* complainant as the P.W.-1, the P.W-3 and the P.W-2. Thereafter, on recall, they again examined as the P.W-1, the P.W-3 and the P.W-2. On recall, the P.W-1, Sonali Khatun, the *de-facto* complainant of this case has stated that she filed the instant case as her relatives instigated her to file the same. She has further stated that some family dispute had taken place out of misunderstanding and she was not willing to file the instant case but under compelling situation, she filed the instant case. She has further stated that she was compelled to state her earlier depositions as her near relatives instigated her to tell the same. She has also stated that she put her signature on FIR as per direction of the scribe of it and police. She has also stated that she is residing in her matrimonial home peacefully with them and with her minor daughter aged about 9 years. In court, she beg for leading peaceful life with her husband and daughter. By invoking the term compassionate, I am not willing to go through the depositions as made by Sonali Khatun, the *de-facto* complainant on earlier occasion. The P.W-2 on recall, admitted that her daughter, the P.W-1 filed the instant case as per her direction and the direction of the father of the P.W-1. The P.W-2, the mother of the *de-facto* complainant has stated on recall that misunderstanding was there in between her daughter and her in-mate members and she along with her husband tried to settle their misunderstanding on several occasion and as no fruitful result had come out, she advised her daughter to file the instant case. On recall, she admitted that which she had stated before court on earlier occasion, those are not her real statement and she made those statement emotionally. She has stated that no such incident ever happened during the matrimonial life of her daughter. She beg pardon. The P.W-3 on recall, admitted that his daughter, the P.W-1 filed the instant case as per his direction and the direction of the mother of the P.W-1. The P.W-3, the father of the *de-facto* complainant has stated on recall that misunderstanding was there in between his daughter and her in-mate members and he along with his wife tried to settle their misunderstanding on several occasion and as no fruitful result had come out, he advised his daughter to file the instant case. On recall, he admitted that which he had stated before court on earlier occasion, those are -

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not his real statement and he made those statement emotionally. He has stated that no such incident ever happened during the matrimonial life of his daughter. He beg pardon. Under the circumstances, I have no other option but to excuse the P.W-1, the P.W-2 and the P.W-3 as the nature of offences are related to matrimonial dispute and as the *de-facto* complainant and her minor daughter are now peacefully residing in the matrimonial home of the *de-facto* complainant. In such situation, I hold that accused persons should have to be acquitted from the case.

Hence it is,

Ordered

the accused persons namely, Babar Sk, Tanuja Bibi, Harai Sk, Liyakat Sk and Tosli Bibi are found not guilty for the commission of offences punishable under Sections 498A, 307, Indian Penal Code read with Section 34, Indian Penal Code. They are hereby acquitted in terms of Section 232, Code of Criminal Procedure. The sureties are hereby discharged from their respective bail bonds. The accused persons are set at liberty. Seized alat, if any, be destroyed after preserving the same till the period of appeal. Thus, the instant case is disposed of. Note it in trial register.

D/C by me,

Assistant Sessions Judge,
Kandi, Murshidabad.

Assistant Sessions Judge,
Kandi, Murshidabad.