

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P.10 of 2024

Biswajit Banik
..... **Petitioner(s)**

Versus

The State of Tripura
..... **Respondent(s)**

For Petitioner(s) : Mr. D. Bhattacharya, Sr. Advocate.
Mr. Samar Das, Advocate.

For Respondent(s) : Mr. S. Ghosh, Addl.PP.

Date of hearing & delivery
of judgment and order : 01.07.2024.

Whether fit for reporting : NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
Judgment and Order (Oral)

Heard Mr. D. Bhattacharya, learned senior counsel along with Mr. Samar Das, learned counsel for the petitioner. Also heard Mr. S. Ghosh learned Addl. PP for the State.

[2] This criminal revision petition is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 seeking following reliefs:

- "a. admit this petition
- b. issue notice
- c. call for records and

iv. after hearing the parties interfere and set aside the Conviction and sentence dated 02-02-2024 passed by **** Ld. Session Judge Dhalai Judicial District, Ambassa, in Criminal Appeal 02 of 2023 whereby Ld. Court upheld the conviction and sentence passed by the Ld. Assistant Session Judge, Dhalai Judicial District, Ambassa in ST(Type- II) 06 OF 2022 convicted and sentenced the petitioner to suffer RI for 2 years for the commission of offence punishable under section 498A of IPC and RI for 5 years for the commission of offence punishable under section 326B of IPC and in the interim suspend the conviction and sentence till disposal of the Criminal Revision pass such other order or orders as the Hon'ble Court may deem fit and proper for the ends of justice....."

[3] The brief facts of the prosecution case are that complainant on 22.06.2020 got married with the convict petitioner herein. The complainant alleged that convict petitioner on several occasions used to torture the complainant and lastly, on 19.01.2022 at about 13:00 hours convict petitioner started altercation with the complainant. Thereafter convict petitioner brought one bottle of carbolic acid and thrown upon the complainant but somehow she managed to save herself and ran away to the kitchen. Following her, convict petitioner went to kitchen and poured said carbolic acid upon the body of complainant. As result of that, she received burn injuries and on hearing hue and cry the land lord came at the spot and on seeing this informed the matter to her relatives. Accordingly complainant lodged written complaint to the Ambassa Police Station on 18.02.2022. Thereafter investigating authority started investigation and on culmination of investigation submitted charge sheet against the convict petitioner. Learned Trial court after analysing and discussing all the materials announced the judgment on 13.04.2023 and convicted the petitioner whereby sentenced the convict petitioner for RI of 2 years for the commission of offence punishable under section 498A of IPC and RI of 5 years for the commission of offence punishable under section 326B of IPC.

[4] Being aggrieved and dissatisfied with the judgment of conviction and sentence dated 13.04.2023, the petitioner herein preferred an appeal before the learned District Judge vide No. Criminal Appeal 02 of 2023. Learned Appellate court after hearing the parties

passed judgment on 02.02.2024 whereby, the Appellate Court upheld the conviction and sentence of the petitioner as passed by learned Assistant Session Judge, Dhalai Judicial District, Ambassa in Sessions Triable (Type-II) 06 of 2022. Hence, the petitioner approached this Court by filing this criminal revision petition.

[5] Mr. D. Bhattacharya, learned senior counsel appearing for the petitioner submits that learned Trial court failed to appreciate the evidence of PW-1, PW-3, PW-4 with PW-9 in respect of marriage and living together. There are some discrepancies in the observation made by the learned Trial court. He further submits that learned Court below failed to appreciate that there was no marriage between the convict and the victim and prosecution has completely failed to prove such cardinal issue. Learned senior counsel, therefore, prays that the conviction under Section 498A IPC is liable to be set aside. He, further contends that there was no proof of demand of money by the convict and the prosecution also failed to prove such demand of money either in the way of relation or living relation.

[6] Mr. Bhattacharya, learned senior counsel argues that the findings under Section 326B of the IPC is perverse because of the contradicted statements of the victim (PW-1) itself along with prosecution witnesses i.e. PW-3, PW-9, wherein the victim stated that acid was thrown by the convict petitioner but, the statement of PWs 3 & 9 indicates that acid might have been consumed by the victim. Both the situations are different in nature. As such, the findings of the Courts below required to be interfered with. He further submits that the learned Courts below failed to appreciate the issue of informing police in respect of delay of almost one month, though the medical prescription does not speak about such issue. Therefore, he prays that the findings recorded by the courts below be set aside.

[7] Heard learned counsel for the parties. Perused the record.

[8] Having heard the learned counsel for the parties and on perusal of records, this Court is of the view that the prosecution could not prove its case beyond reasonable doubt. This Court finds force in the argument made by the learned senior counsel for the petitioner. Thus, the petitioner is entitled to benefit of doubt. As consequence thereof, the impugned judgment and order is set aside and the petitioner is acquitted from the accusation.

In the light of the above, the present petition stands allowed and accordingly, the same is disposed of. As a sequel, miscellaneous application(s) pending if any, shall also stand closed.

JUDGE



Sabyasachi G.

**SABYASACHI
GHOSH**

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