

**HIGH COURT OF TRIPURA
AGARTALA**

CRL. REV. P. NO. 14 OF 2024

- 1. Abjal Miah** S/o Bahar Miah
R/o Holakhet, PS: RK Pur, Dist.: Gomati, Tripura
- 2. Bahar Miah** S/o Lt. Farid Miah
R/o Holakhet, PS: RK Pur, Dist.: Gomati, Tripura
- 3. Ayasha Khatun** W/o Bahar Miah
R/o Holakhet, PS: RK Pur, Dist.: Gomati, Tripura
- 4. Rahima Khatun** D/o Bahar Miah
R/o Holakhet, PS: RK Pur, Dist.: Gomati, Tripura

.....Accused-Petitioner(s)

Versus

The State of Tripura

.....Respondent(s)

For Petitioner(s)	:	Ms. A. Pal, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.
Date of Hearing & Judgment and Order	:	06.05.2024
Whether fit for Reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order(Oral)

Heard Learned Counsel for the petitioner Ms. A. Pal and also heard Learned P.P, Mr. Raju Datta appearing on behalf of the State-respondent.

02. This revision petition is filed under Section 397 read with Section 401 of Cr.P.C. challenging the order dated 24.01.2024 passed by Learned Sessions Judge, Gomati District Udaipur in connection with case No.ST 47 of 2022. By the said order, Learned Sessions Judge has framed charge against the petitioners namely Abjal Miah, Bahar

Miah, Ayasha Khatun and Rahima Khatun under Section 498(A)/325/307/506/34 of IPC and also a separate charge is framed against another petitioner-accused namely Bahar Miah under Section 506 of IPC.

03. At the time of hearing, Learned Counsel for the petitioner submitted that from the materials on record, it appears that there is no evidence for framing of charge under 498(A)/325/307/506/34 of IPC against any of the petitioner-accused persons but the Learned Court below has wrongly framed the charge against the said petitioners, so, Learned Counsel prayed for setting aside the said order dated 24.01.2024 passed by Learned Sessions Judge, Gomati District, Udaipur.

04. On the other hand, Learned P.P. representing the prosecution submitted that in this case, only the charge is framed and furthermore, till recording evidence of the witnesses of the prosecution, there is no scope to discharge the petitioners from the charges framed by Learned Sessions Judge, so, there is no merit in the petition filed by the petitioners and prayed for dismissal of the revision petition.

05. Considered.

06. The prosecution in the case was set into motion on the basis of an FIR laid by one Dilbar Hossain, S/o Late Siraj Miah, Vill: Uttar Chandrapur under P.S. RK Pur to O.C., RK Pur, Women P.S., Udaipur alleging inter alia that about nine months back the marriage of his daughter i.e. the victim was solemnized with the petitioner Abjal Miah as per

Mohammedan Rites and Customs. In the marriage, as per their demand, so many articles were given. But after elapsing of 3/4 months, the accused persons i.e. the petitioners on different pleas started causing physical and mental torture upon the victim. They were requested to amend themselves but inspite of that there was no change to their behaviour and later on the victim became pregnant and she was having pregnancy of three months but they did not consult any doctor. After that the informant brought his daughter to his residence and thereafter, she was again sent back to her matrimonial home and on 09.09.2022 in the morning, he got an information from Holakhet Panchayat that the condition of his daughter was serious.

07. Accordingly, he rushed towards the P.O. and found smell of kerosene oil from the body of the victim and on query he could know from the victim that the accused-petitioners with an intention to kill her, severely assaulted her and poured kerosene oil on her body and tried to set fire upon her body. She was, thereafter, shifted to Tripura Sundari District Hospital, Udaipur for treatment and he laid the FIR. to O.C. RK Pur Women P.S. Accordingly, O/C RK Pur Women P.S. registered RK Pur Women P.S. case No.38 of 2022 under Section 498(A)/326/34 of IPC and after completion of investigation, the I.O. being prima facie satisfied laid charge-sheet against all the petitioners under Section 498(A)/325/307/506/34 of IPC.

08. I have perused the entire case record of the Learned Court below and also heard Learned Counsel of both the sides. In this case, the evidence of the witnesses of the prosecution has not yet been recorded. Learned Court below, considering the materials on record, framed charges against the accused-petitioners which has been challenged by the petitioners before this Court.

09. I have also gone through the statement of witnesses, recorded by I.O. during investigation under Section 161 of Cr.P.C. including the medical report of the victim procured by I.O. during investigation and seizure memo. Learned Court below, as already stated, framed charges against all the petitioners under Section 498(A)/325/307/34 of IPC and also framed charge against the petitioner, Bahar Miah, separately under Section 506 of IPC.

10. From the statement of the witnesses, so far recorded by I.O. during investigation under Section 161 of Cr.P.C., prima facie I do not find any materials against any of the accused-petitioners under Section 498(A) of IPC but there are materials for framing of charges against the petitioners under Section 325/307/34 of IPC and also materials for framing charge under Section 506 of IPC.

11. From the medical report of the victim, further, it appears that the injury of the victim was severe in nature and according to the Medical Officer, the victim sustained Superficial corrosive burn injury by kerosene oil over

extensive area like chest, trunk, lower limb, upper limb etc. As per Medical Science, Superficial or First Degree burns only affects the outer layer of skin or the epidermis. The area will be red and painful but there will no permanent damage.

12. Here in this case, the evidence of the victim has not yet been recorded, so, in absence of evidence of the victim and other witnesses, the actual allegation against the petitioners cannot be determined. So, the prosecution is to adduce all the witnesses in the case before the Learned Court below to substantiate the charge and at the same time, the accused-petitioners shall have the liberty to take proper defence before the Learned Court below to prove their innocence.

13. So, considering the facts and circumstances of the case and after hearing Learned Counsel of both the sides, it appears to me that a fresh charge is required to be framed against the petitioners deleting Section 498(A) of IPC. If in course of trial, the material under Section 498(A) of IPC is revealed against the petitioners in that case, the Learned Court below shall have the liberty to alter the charge. But till then, it comes to this Court that prima facie there is no material to frame charge against the petitioners under Section 498(A) of IPC. But there are materials to frame charge against all the petitioners as stated above under Section 325/307/34 of IPC and also there is material to frame charge under Section 506 of IPC.

14. In the result, the revision petition filed by the petitioners is partly allowed. Section 498(A) of IPC be deleted from the charge framed by Learned Court below and a fresh charge be framed against the petitioners under Section 325/307/34 of IPC along with Section 506 of IPC against one of the petitioner. The petitioners shall appear before the Learned Court below on 20.05.2024. On that day, Learned Court below shall frame a fresh charge against the petitioners and thereafter, shall proceed for recording evidence of the witnesses of the prosecution. All endeavour shall be made to dispose of the case within a period of four months from the date of receipt of the copy of the judgment/order.

15. A copy of this order be communicated to the Learned Court below immediately. A copy of this order/judgment also be furnished to Learned Counsel for the petitioners free of cost. Send down the LCRs henceforth.

Pending application(s), if any, is accordingly stands disposed of.

With this observation, this revision petition is disposed of on contest.

JUDGE

SABYASACHI
BHATTACHARJEE

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