

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.A(J)39 of 2023

- 1. Sri Ratan Debnath, (30 Years)**
son of Sri Manindra Debnath, resident of Harijoy Choudhury Para,
Mohanpur, P.O. Majlishpur- 799035, P.S.Ranirbazaar, District- West Tripura
- 2. Sri Manindra Debnath, (68 years)**
son of late Aswini Debnath, resident of Harijoy Choudhury Para,
Mohanpur, P.O. Majlishpur- 799035, P.S.Ranirbazaar, District- West Tripura
- 3. Smt. Manada debnath, (68 years)**
wife of Sri Manindra Debnath, resident of Harijoy Choudhury Para,
Mohanpur, P.O. Majlishpur-799035, P.S.Ranirbazaar, District- West Tripura

-----Appellant(s)

Versus

The State of Tripura

---Respondent(s)

For Appellant (s)	:	Mr. H. Debnath, Advocate.
For Respondent(s)	:	Mr. S. Ghosh, Addl. PP.
Date of hearing and date of judgment and order	:	23.07.2024.
Whether fit for reporting	:	No

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment & Order (Oral)

T.Amarnath Goud, J

Heard Mr. H. Debnath, learned counsel appearing for the appellants also
heard Mr. S. Ghosh, learned Addl. PP appearing for the state-respondent.

[2] This is an appeal under Section 374(2) of the Code of Criminal Procedure, 1973 against the judgment of conviction and order of sentence dated 24.08.2023 and 28.08.2023 respectively, passed by the learned Additional Sessions Judge, West Tripura, Agartala, Court no.5, in case No. S.T.(Type-1) 29 of 2015 convicting the appellants under Section 498-A/304-B read with Section 34 of the Indian Penal Code, and sentencing each of them to suffer rigorous imprisonment for 10(ten) years for the offence punishable under Section 304-B of the IPC, and also to

suffer rigorous imprisonment for a period of 3 (three) years and to pay a fine of Rs.5,000/- each for the commission of offence punishable under Section 498-A IPC, and in default to suffer further simple imprisonment for 2(two) months, with a direction that both the sentences shall run concurrently.

[3] The brief fact of the prosecution case, as revealed from First Investigation Report/Ejahaar is that in the year 2012 daughter of complainant got marriage with accused Ratan Debnath as per Hindu rites and customs and at the time of marriage complainant fulfilled all the demands of bridegroom including cash of Rs.50,000/- as per his capability and they led happy conjugal life for few days. After few days, daughter of complainant subjected to torture and cruelty on demand of dowry by her husband and relatives and the torture was increased day by day. Subsequently, on 25/26-03-2014 night the complainant was initially informed by accused Manindra Debnath that complainant's daughter was seriously ill and fallen on the ground and again after sometime he informed to the complainant that his daughter committed suicide by hanging. Thereafter, complainant along with his relatives rushed to the spot and found that his daughter was hanging in her husband's room and it was also noticed that both the legs of victim were touching the ground. Stating the above mentioned fact, informant Prandhan Debnath filed FIR before the Officer in Charge of Ranir Bazar PS. On the basis of FIR, PS case was registered against the accused persons and on completion of the investigation and finding sufficient materials charge sheet is filed against the accused persons namely Ratan Debnath, Manindra Debnath and Manada Debnath under section 498A/306/304(B)/34 of IPC.

[4] On receipt of charge sheet, the Committal Court took cognizance of the offences and finding the offence under sections 498A/304(B) of IPC which is exclusively triable by the Sessions Court, committed the record to the Court of the Ld.

Sessions Judge, West Tripura, Agartala. Ld. Sessions Judge, West Tripura, Agartala received the record and transferred it to this Court for disposal in accordance to law.

[5] Upon hearing of both sides, charges were framed by this court against accused persons for offence punishable under section 498A/306/34 OF IPC and the charges were read over and explained to accused persons but they pleaded not guilty and claimed to be tried. Hence, trial commenced.

[6] During trial, prosecution examined as many as 14 (fourteen) witnesses. After closure of prosecution evidence, accused persons were examined under section 313 Criminal Procedure Code and their answers and replies were recorded. Accused persons also adduce 3 witnesses on their behalf to defend the case. Thereafter, on 20.06.2023 additional charge was framed as per prayer of Ld. Addl. PP dt.08.06.2023 under section u/s 304(B)/34 of IPC and the charges were read over and explained to accused persons but they pleaded not guilty and claimed to be tried.

[7] After hearing both sides, the learned Court below delivered the judgment and order of conviction and sentence dated 28.08.2023 wherein, the appellants have been convicted as under:

“In view of the discussion stated above, I hereby sentence the convict Sri Ratan Debnath, Sri Manindra Debnath and Smt. Manada Debnath to a sentence of R.I. for ten (10) years each for the offence punishable under Sec. 304-B of IPC and R.I. for three (3) years each and a fine of Rs.5,000/- each in default SI for two (2) months each for the offence punishable under Sec. 498-A of IPC.

Both the sentence shall run concurrently.

The period of detention undergone by the convicts during enquiry and trial, if any, shall be set off from the sentenced period.”

[8] Being aggrieved by and dissatisfied with the judgment and order of conviction, the present appeal has been preferred by the appellants.

[9] It is contended by the counsel for the appellants that the alleged offence was committed in the inlaws house of the deceased at Harijoy Choudhury para, Mohanpur. It has been revealed from the evidences on record that there are so many

houses around the house of the accused persons, and as such, the neighbours of the accused persons are undoubtedly the best persons to give evidence regarding the pros and cons of the alleged occurrence, if any, happened between the deceased (during her life time) and the accused persons. But the prosecution did not examine any such witness from the locality of the accused persons in support of the prosecution case, which creates great shadow upon the prosecution case, but the learned trial court has miserably failed to appreciate it.

[10] It is further contended by the counsel for the appellants that from the entire evidence on record, it is found that no specific date and time of the alleged torture including the nature of such torture could be given by the prosecution witnesses. The prosecution witnesses only made some omnibus statements before the learned trial court during their examination regarding the alleged torture, and as such, on the basis of such omnibus statements no conviction and sentence can be awarded, but the learned trial failed to understand it. Learned counsel for the appellants further prayed to allow the appeal by setting aside the impugned order of the learned court below.

[11] On the other side, Mr. S. Ghosh, learned Addl. PP appearing for the state-respondent has vehemently opposed such statement and contended before this court that the impugned order as passed by the learned court below is just and proper and further prayed to dismiss the appeal.

[12] On perusal of the record and having regard to the submission as advanced by the counsel for the appellants this Court is of the view that admittedly the death of the deceased was caused under unnatural circumstances, within 7 years of her marriage and she was subjected to cruelty and harassment by the accused persons for demand of dowry and the same was made soon before her death.

[13] In the aforesaid evidence led by the prosecution, none of the witnesses stated about the cruelty or harassment to the deceased by the inlaws-appellant on account of demand of dowry soon before the death of the deceased. Rather harassment has not been narrated by anyone. It is only certain oral averments regarding demand money which is also much prior to the incident. The aforesaid evidence led by the prosecution does not fulfill the pre-requisites to invoke presumption under Section 304B IPC. Even the ingredients of Section 498A IPC are not made out for the same reason as there is no evidence of cruelty and harassment to the deceased soon before her death. Since, the accused petitioner Nos. 2 and 3 are now aged about 68 and 68 years respectively and they do not have any past history of criminal record. Hence, a lenient view has to be taken while imposing a sentence to the aged accused persons. It is seen from the examination of the accused-husband under Section 313 of CrPC when he was asked to say anything in connection with the case to which the accused said that his deceased wife had an illicit relation with someone else and he didn't know as to why she had died.

“Question No.30- Do you like to say in connection with this case?”

Answer: She had an illicit relation with someone else. I don't know as to why she died.”

[14] This clearly indicates that the husband has no repentance on the death of his wife and in turn he points out a stigma against a dead person. This shows the amount of negativity he has against his wife. Simultaneously, this court is not inclined to modify the punishment given to the husband-appellant. None but he is responsible for the death of his deceased wife. It would be a stigma to the society, if stern action is not taken against the accused-husband. The entire incident, as it appears, was the culmination of the long phase of torture being faced by the deceased wife and the plot was directly or indirectly architected by the accused-husband.

[15] With the above observation and direction, the judgment of conviction and order of sentence dated 24.08.2023 and 28.08.2023 respectively, passed by the learned Additional Sessions Judge, West Tripura, Agartala, Court no.5, in case No. S.T.(Type-1) 29 of 2015 is hereby modified. The petitioner Nos.2 and 3 are acquitted for the offences punishable under Section 498(A), 304B/34 of IPC and the punishment with regard to the appellant-husband as awarded by the learned court below stands confirmed.

B.Palit, J

T. Amarnath Goud, J



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