

**THE HIGH COURT OF TRIPURA
AGARTALA**

CRL. REV. P. NO.93 OF 2009

Indrajit Das,
S/O Shri Harendra Das,
Resident of Salema,
P.S. Salema,
District-Dhalai, Tripura.

..... *Petitioner*

- *Vs* -

1. Sri Haripada Das,
S/O Late Gouranga Das.

2. Smt. Sikha Das,
D/O Late Gouranga Das,

Both are resident of
Village-Subarna Jayanti Colony,
P.O. & P.S. Kamalpur,
District-Dhalai, Tripura.

3. The State of Tripura,
Represented by the Secretary,
Department of Home,
Government of Tripura,
Agartala.

..... *Respondents*

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner : Mr. D.C. Roy, Advocate
For respondent Nos.1 &2 : Mr. S. Chakraborty, Advocate
For respondent No.3 : Mr. A. Ghosh, P.P.

Date of hearing & delivery
of Judgment & order : **22.04.2015.**

Whether Fit for Reporting :

Yes	No
	√

JUDGMENT & ORDER(ORAL)

This revisional application under Section 397 read with Section 401 of CrPC is directed against judgment and order of acquittal dated 09.09.2009 passed by learned Addl. Sessions Judge, Kamalpur in Sessions Trial Case No.S.T.7(NT/KMP)2009.

2. Heard learned counsel, Mr. D.C. Roy for the petitioner and learned counsel, Mr. S. Chakraborty for accused-respondent Nos.1 and 2 and learned P.P., Mr. A. Ghosh for State respondent No.3.

3. The revisional application has been filed by petitioner Indrajit Das challenging the judgment and order of acquittal dated 09.09.2009. The said Indrajit Das set the law in motion by filing an FIR on 27.10.2006 alleging, *inter alia*, that his sister Soma Das was given in marriage with accused-respondent, Haripada Das about five years ago(from the date of lodging FIR) and that soon after marriage she was subjected to physical and mental torture. The mother of Haripada, namely Kalpana Das and sister of Haripada, namely Sikha Das together used to torture on Soma. On 25.10.2006, a Wednesday at about 2.00 PM, there was a quarrel between Soma and mother and sister of Haripada and thereafter Haripada administered poison to his wife and after administering poison Soma was taken to Kamalpur Hospital but no information was sent to them(informant). After having information through

third person they went to hospital and took Soma to G.B. Hospital on 26.10.2006 and on that day Soma died at G.B. Hospital.

3.1. O/C Kamalpur P.S., on the basis of the FIR lodged by Indrajit Das(PW17), registered the case and after investigation submitted charge sheet against accused-respondent Nos.1 and 2 for commission of offence punishable under Sections 498A and 304B read with Section 34 of IPC.

3.2. In course of trial learned Addl. Sessions Judge on 30.05.2009 framed charges against accused-respondent Nos.1 and 2 for commission of offence punishable under Sections 498A and 306 read with Section 34 of IPC to which they pleaded not guilty and claimed to be tried.

3.3. To prove the charges prosecution examined 18(eighteen) witnesses. After closure of the prosecution evidence accused persons were examined under Section 313 of CrPC and in their turn they adduced no defence evidence. Defence case is that of the denial of the prosecution case.

3.4. Learned Addl. Sessions Judge by impugned judgment and order dated 09.09.2009 acquitted both the accused respondent Nos.1 and 2 from the charges and hence this revisional application is filed by the *de facto* complainant, Indrajit Das(PW17).

4. Appearing for the petitioner learned counsel, Mr. Roy has submitted that it is an undisputed fact that Soma Das, the sister of the petitioner died an unnatural death within seven years of her marriage. PWs 7 and 12 are the parents(mother and father of the deceased) and PW17 is the brother(informant) of the deceased. They have stated about the fact that Soma was subjected to torture in the matrimonial home by the accused-respondents and their mother. She was administered poison on 25.10.2006 which they learnt from PWs 1 and 3. Though PWs 1 and 3 have turned hostile but their previous statements have been proved by the prosecution and that exhibited previous statements, *i.e.* Exbt.1 and Exbt.3 support the prosecution case that there was abatement of suicide and Soma was tortured in the matrimonial home. According to Mr. Roy, learned counsel, the learned Addl. Sessions Judge has failed to appreciate the evidence and hence wrongly passed an order of acquittal.

4.1. On the other hand learned counsel, Mr. Chakraborty appearing for the accused-respondent Nos.1 and 2 has submitted that there is no evidence at all to show that Soma was subjected to torture in the matrimonial home and only PW12 has stated that Soma used to complain during her lifetime that she was subjected to torture for not giving money demanded by the accused persons and that she committed suicide because of torture. That statement of PW12, submits Mr. Chakraborty learned counsel, is an omnibus statement and on the basis of that statement no decision can be

arrived of alleged torture on demand of money or otherwise. He has also submitted that there is no allegation in the FIR that there was any demand of money or that for any particular reason Soma was subjected to torture.

5. I have gone through the impugned judgment and the evidence on record. The learned Addl. Sessions Judge, as it appears, has very carefully gone through the evidence on record and arrived at a reasoned finding. According to PWs 7 and 17, *i.e.* the mother and brother of the deceased as well as PW9, they came to learn about torture on Soma by the accused-respondents from PWs 1 and 3. PWs 1 and 3 are the husband and wife. They have turned hostile. They did not utter a single word of torture or abatement to suicide; rather PW3 stated that in her presence Soma consumed poison and that she tried to resist and she further stated that there was a minor altercation between Soma and her husband before the incident and husband of Soma left for the field to call his mother when Soma actually took poison. In her cross-examination, only her previous statement was referred and marked as Exbt.3. PW1 also stated nothing incriminating. Therefore, the statement of PWs 7 and 17 that they came to learn about the incident from PWs 1 and 3 has no foundation. Though a number of witnesses have been examined, I find nothing incriminating in the statement of other witnesses. PW9 also, though stated that he knew that Soma was subjected to physical torture by her husband off and on but how he could know that nothing has been disclosed. Except some

omnibus statements about the physical torture there is no direct evidence to implicate the accused persons and to prove the charges against them.

6. This Court, though is not required to meticulously examine the evidence on record in a revisional application but since non-appreciation of evidence has been alleged by learned counsel, Mr. Roy, I have meticulously gone through the evidence on record and I find no infirmity in the judgment passed by learned Addl. Sessions Judge to say that there was non-appreciation of the evidence on record or non-application of the mind. Since I find no infirmity in the judgment passed by the trial Judge, the revisional application is found to be devoid of any merit and hence stands dismissed.

7. Send back the L.C. records along with a copy of the judgment.

JUDGE