

Form No.J(1)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Tirthankar Ghosh

**C.R.R. 3086 of 2000
(Via Video Conference)**

***Sri Nityalal Malick & Ors.
versus
The State of West Bengal***

For the Petitioners : Mr. Niladri Sekhar Ghosh.

For the State : Mr. Arijit Ganguly,
Mr. Sandip Chakraborty.

Heard On : 07-06-2021 & 08-06-2021.

Judgement On : 08-06-2021.

Tirthankar Ghosh, J. :

The present revisional application has been preferred by four petitioners against the judgement and order passed by the learned Additional Sessions Judge, Arambagh in Criminal Appeal No. 8 of 2000 wherein learned appellate court was pleased to affirm the order of conviction and sentence passed by the learned Assistant Sessions

Judge, Arambagh in connection with S.T. No. 193/98 arising out of G.R. Case No. 331/95 (corresponding to Pursurah P.S. Case No. 53 dated 26.08.95). The sentence so imposed by the learned Assistant Sessions Judge, Arambagh (hereinafter referred to as the “trial court”) was simple imprisonment for six months and to pay fine of Rs.1,800/- each, i.d. to suffer S.I. for another six months for the offence under Section 498A of the Indian Penal Code.

Mr. Ghosh, learned advocate appearing for the petitioners submits that the learned appellate court has mechanically appreciated the evidence and in fact, by way of such appreciation, the learned trial court has ignored evidence which was deposed by the prosecution witnesses. Learned advocate further submits that if the prosecution evidence is appreciated in a cumulative manner, *prima facie*, no offence has been made out so far as the present petitioners are concerned and unnecessarily the learned appellate court has stressed on the FIR/letter of complaint which was the genesis of the instant case.

Mr. Chakraborty, learned advocate appearing for the State supports the judgement of the learned trial court as well as that of the learned appellate court and submits that the offence was committed by the present petitioners and appreciation of the evidence reflects that

there were immense mental torture which were inflicted upon the deceased which compelled her to commit suicide.

I have taken into account the judgements delivered by the learned trial court as well as the learned appellate court. An appreciation of the prosecution evidence, more particularly that of PW-1, PW-2 and PW-3 reflects that there was consistent torture inflicted by the present petitioners with lathi, broom-sticks etc. and such marks of violence on different parts of the body were shown to her brothers. There is evidence to the effect that at the time of marriage, Rs.20,000/- was given by way of cash and further pressure was exerted upon the deceased to bring more dowry after the marriage. The summary of the evidence so adduced by the relations of the deceased reflects that because of failing to bring more dowry, the present petitioners instigated/abetted the victim to commit suicide. No explanation has been given by the petitioners in their examination under Section 313 of the Code of Criminal Procedure.

I have taken into account the manner in which the learned trial court as well as the learned appellate court has arrived at their conclusion of guilt so far as the present petitioners are concerned. I find that the reasons so assigned by both the courts are logical in the background of the evidence which has been adduced by the prosecution. Having regard to the same, I am of the view that no interference is called

for so far as the issue of the accused persons being guilty of the offence is concerned.

The records reflect that the incident is of 23.08.1995 and during the course of investigation and trial, petitioner nos. 1 and 2 have already suffered a period of three months in custody. So far as the petitioner nos. 3 and 4 are concerned, they are ladies and were granted bail when they surrendered before the court.

As the incident is 26 years old and there has been no complaint against the petitioners regarding their conduct in the society, I am of the view that it would be futile to send the petitioners to custody after such a long time when they have been suffering from mental agony because of the sentence pending for more than 20 years.

In view of the aforesaid, so far as the petitioner nos. 1 and 2, viz. Sri Nityalal Mallick and Babulal Mallick are concerned, I am of the view that their sentence may be reduced to the period which has already been undergone by them. So far as the petitioner nos. 3 and 4 viz., Smt. Bakul Mallick and Smt. Kachi Mallick are concerned, I am of the view that their sentence is altered to a payment of fine. The petitioner nos. 3 and 4 will pay fine of Rs.10,000/- each, in default they would be directed to suffer sentence of six months as directed by the learned trial court.

The petitioner nos. 3 and 4 are directed to submit such fine amount by 31.08.2021.

Learned trial court is directed to accept the fine, if so tendered by the petitioner nos. 3 and 4.

With the aforesaid observations, CRR 3086 of 2000 is partly allowed.

This order is restricted to the facts of the present case only.

Lower court records be sent down to the learned court below.

Department is directed to communicate this order to the concerned court below.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities

(TIRTHANKAR GHOSH, J.)

dc.