

27.01.2022
Ct. No.40
Item no. 11
d.g.

CRA 225 of 1991

**Khudiram Gorain
Vs.
The State of West Bengal**

**Mr. Narayan Prasad Agarwala, Adv.
Mr. Pratick Bose, Adv.
...for the State.**

None appears for the appellant, Khudiram Gorain.

The respondent, the State of West Bengal is represented by Mr. Narayan Prasad Agarwala, learned Advocate with Mr. Pratick Bose, learned Advocate.

Their appointments may be regularized in due course.

It appears that despite several opportunities were given to the appellant to appear before the Court and continue with the appeal, he did not turn up before the Court.

From the conduct of the appellant, I feel that the appellant is not interested to proceed with the appeal.

Learned lawyer appearing for the State of West Bengal submits that this Court may pass necessary order as the Court deems it just after going through the evidence on record.

This appeal has been preferred by the appellant Khudiram Gorain being aggrieved by the judgment and order of conviction and sentence passed by the learned Additional Sessions Judge, Judge Special Court, Birbhum at Suri in Sessions Trial No. 1 of April, 1991 arising out of

Sessions Case No. 67 of 1990. By the judgment the appellant was convicted for commission of offence punishable under Section 498A, IPC and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.500/-, in default, to suffer R.I. for one month.

In the absence of the appellant, the evidence as available from the record needs to be scrutinized with care and circumspection.

Before proceeding further, I think that the necessary facts may be summarized as under.

The informant Purnima Gorain lodged an FIR at Bolpur P.S. stating therein after her marriage with the appellant Khudiram Gorain 17/18 years back, she gave birth to a son and a daughter who were then aged seven years and nine years respectively. But after a few years, she lost her peaceful marital life as her husband developed an illicit relationship with one widow namely Lichu Rani Mandal. While she voiced protest against such relationship with the said women, the appellant tortured her physically and mentally. Ultimately, the appellant along with other accused persons namely Sushila Bala Gorain, Nibriti Gorain and Lichu Rani Mandal inflicted intense torture upon her and brutally assaulted her in order to kill her.

On the basis of the FIR lodged at the aforesaid local PS one case was registered for investigation under Sections 498A/307 IPC. After completion of the investigation, the Investigating Officer submitted charge sheet against all the

accused persons including the appellant under the aforesaid Sections of the IPC.

After scrutinizing and assessment of evidence on record the learned Trial Judge acquitted the other accused persons namely Sushila Bala Gorain, Nibritti Gorain and Lichu Rani Mandal of all the charges levelled against them. But the learned Trial Judge recorded the conviction against the appellant as stated above.

After going through the evidence on record especially the evidence of the victim woman, Purnima Gorain, I find that the learned Trial Judge has properly recorded a finding that the appellant Khudiram Gorain was guilty of commission of the offence punishable under Section 498A IPC. I concur with the conviction as recorded by the learned Trial Judge.

Now the question arises what will be the quantum of sentence to be imposed upon the appellant.

From the case record, I find that before the case was committed to the Court of learned Sessions Judge, the appellant was in custody for more than one month. After he was convicted and sentenced as above on 31st May, 1991, he was detained in judicial custody. From a copy of the order passed this Court, I find that the appellant was enlarged on bail on 12th July, 1991.

Therefore, I find that the appellant was in custody for more than three months in total.

The appellant has been pursuing the aforesaid criminal case lodged against him since 11th June, 1989, initially before the learned SDJM, now ACJM, Bolpur, and thereafter, before the learned Sessions Judge till the judgment impugned was delivered on 31st May, 1991. He had been continuing the appeal preferred by him since 1991.

What I feel, the appellant has undergone mental pains and agonies for more than 32 years. He has been convicted for commission of offence only under Section 498A IPC and has been acquitted of the charge under Section 307 IPC.

I feel that if the sentence is reduced to the period of detention already served by the appellant/convict, it will be conducive to the interest of justice.

Accordingly, the sentence as imposed by the learned Trial Judge is reduced to the detention already undergone by the convict.

In view of the above, the appeal is dismissed on merits.

As the appellant has already served out the sentence, he be set at liberty forthwith.

The appellant be discharged from the bail bonds.

Send down the LCR to the learned Court below along with a copy of this judgment immediately.

(Rabindranath Samanta, J.)