

Item No. 81
22.11.2022
Crt. No. 12
Sourav/b.r.

C.R.A 232 of 2009

In the matter of : **Sukhen Chowdhury & Ors.**
 -versus-
 The State of West Bengal

Mr. Pratim Kumar Chatterjee
.....for the appellants.

Mr. Prasun Kumar Datta, APP
Ms. Zarine N Khan
Md. Kutubuddin
..... For the State.

Heard learned Counsel for the appellants, Mr. Pratip Kumar Chatterjee.

Mr. Prasun Kumar Datta, learned Additional Public Prosecutor being assisted by Ms. Zarine N Khan, learned counsel appearing for the State.

Perused the affidavit filed by brother of one of the appellants in Court today.

All the appellants were convicted for the offences punishable under Section 498A and 307 IPC read with Section 34 thereof.

All the convicts/appellants (six in numbers) were sentenced each to suffer Rigorous Imprisonment for five years with a fine of Rs.2000/- each in default to suffer further Rigorous Imprisonment for six months more for the offence punishable under Section 307/34 IPC and to suffer Rigorous Imprisonment for one year and a fine of Rs.1000/- each in default to suffer Rigorous

imprisonment for one month each for the offence under Section 498A of the IPC.

All the appellants in the meantime have been released after serving the sentence, which were ordered to run concurrently. The occurrence happened on 15.11.1996. One of the victim, Ms. Mala Choudhury, wife of appellant no.1, who is the informant and the injured died on 13.07.1998 at home.

During the course, from the date of occurrence and her death was treated in different hospital for different ailments. Taking into consideration the factum of the death of injured informant, this Court while admitting the appeal had issued a rule of enhancement of sentence on August 08, 2009.

In course of hearing, it is submitted by learned counsel for the appellants that there is no nexus between the occurrence and the death of the informant of the case.

In order to satisfy ourselves, we had directed the learned State counsel to obtain a report as to whether any post mortem was conducted after the death of injured informant.

Mr. Debasis Chakrobarty, I.C., Rampurhat P.S. vide his report dated 22.11.2022 has reported that inspite of his best effort he could not lay hands in any record pointing towards the fact that the deceased was subjected to post mortem examination.

Mr. Prasun Kumar Datta, learned Public Prosecutor also fairly submits, that on a thorough scrutiny of the records, he also could not find that the injury sustained by the informant had any nexus with her death. It is also fairly submitted by Mr. Datta that

there is also no proximity in time so far as the occurrence and the death of the injured informant are concerned.

Taking into consideration all the aforesaid facts, we discharge the appellants from the rule of enhancement of sentence. Taking into consideration the evidence on record, the rationale with which learned trial court has arrived at the findings, the findings arrived at by learned trial court is affirmed, so far as the conviction of the appellants under Sections 498A, 307/34 of the Indian Penal Code is concerned and so far as the sentence recorded thereunder is concerned.

The appeal is accordingly disposed of.

Urgent xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)