

**CRR No. 1683 of 2005**

In the matter of : Jahir Ali Sk @ Pacha Sk. @ Bag & Ors.  
....petitioners.

Mr. Snehansu Majumder ....for the Petitioner.

Mr. Binay Panda  
Mr. Subham Bhakat ...for the State.

This revisional application challenges the order passed by Learned 2<sup>nd</sup> Court of Additional Sessions Judge, Krishnagar, Nadia on 5<sup>th</sup> May, 2003 in Criminal Appeal No.37 of 2000. By the impugned order learned Additional Sessions Judge was pleased to dismiss the criminal appeal but not on merit.

Briefly stated, one Aujira Bibi depicted herself as neglected wife of the petitioner, and stated that she was subjected to torture in her matrimonial home after the birth of her child over the demand of sum of Rs.10,000/- by her husband, instigated by the other family members. On 30<sup>th</sup> October, 1991 she was assaulted by her husband and other inmates for not paying money. She was treated at Krishnagar Sadar Hospital under Dr. Tarunjit Dutta, Orthopaedic Surgeon. Such information since disclosed offence cognizable in nature, Chapra P.S. Case No.141 of

1993 was registered on 25<sup>th</sup> March, 1993. Police took up investigation which culminated into submission of charge sheet. Learned Trial Court after considering the evidence on record was pleased to hold the accused persons guilty of Section 498A of the Indian Penal Code and sentenced them to suffer imprisonment for two years and to pay a fine of Rs.2,000/-. The convicts challenged the judgment and order of conviction by preferring an appeal being Criminal Appeal No.37 of 2000 on 5<sup>th</sup> May, 2003. Learned appellate court having found none to represent the appellant was pleased to dismiss the appeal for default.

The impugned order is utterly outrageous and should not be allowed to remain in force. A criminal appeal cannot be disposed of by an order like this. It has to be disposed of on merits. In the event, the appellant was not represented by any lawyer, learned appellate court ought to have appointed any counsel to assist the court.

The impugned order is set aside. Learned appellate court is directed to dispose of the appeal on merit within one month from the date of receipt of the order.

With this observation, this revisional application is disposed of.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

Lower court records be sent down to the Trial Court forthwith.

Urgent certified copy of this order be immediately made available to the parties subject to compliance with all requisite formalities.

**(Siddhartha Roy Chowdhury, J. )**