

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
(APPELLATE SIDE)**

Present:

The Hon'ble Justice Rai Chattopadhyay

C.R.A No. 524 of 2012

Krishnapada Mahato & Ors.

Vs.

State of West Bengal

For the petitioner

: Mr. Abhra Mukherjee.

For the State

: Mr. P.K. Dutta,
: Mr. Santunu Deb Roy,
: Md. Kutubuddin.

Hearing concluded on: 01/05/2023

Judgment on: 13/12/2023

Rai Chattopadhyay, J.

1. This appeal involves determination of a very short question as to whether the trial Court could have legally and rightly based on the evidence of the hostile witnesses, which did not support the prosecution case and that of the investigating officer which contradicts such unfavourable evidence of the prime witnesses, to come to the finding of guilt of the accused persons/appellants, or not.
2. The appeal arises from the judgment of conviction and sentence dated 18.07.2012 and 19.07.2012 respectively, passed by the Additional Dist.

& Sessions Judge, Fast track, 3rd Court, Purulia, in Sessions Trial No. 03/12 under Sections 498A/306/34 IPC.

3. The proceedings started pursuant to the FIR dated 30.05.2010 being Manbazar, P.S Case No. 21/2010 dated 30.05.2010 under Section 498A/306/34 IPC.
4. The FIR reads as follows:-

“My humble submission is that I am Shri Shraban Mahato of village Karmatanr. My daughter Mamata’s marriage was given with Krishnapada Mahato, youngest son of Nagendranath Mahato, a resident of village Sindurpur about five years ago from today. After marriage, 1) Krishnapada Mahato, son of Nagendranath Mahato, 2) Cheribala Mahato, wife of Nagendranath Mahato, 3) Adrista Mahato, son of Nagendranath Mahato and 4) Ashalata Mahato, wife of Adrista Mahato used to torture upon my daughter, assault her. In spite of that, my daughter was living at her matrimonial home. One daughter was also born to her, whose age is four months. On 30.5.10 at 12 noon, it was informed to me over phone that my daughter committed suicide by taking poison.

Therefore, I request you to take appropriate steps so that the guilty persons may be punished properly.”

5. Thus accused persons Krishnapada Mahato, Cheribala Mahato, Adrista Mahato and Ashalata Mahato faced trial, after the police investigated and submitted charge sheet against them. Charge was framed by the trial Court on 10.01.2012 to commence the trial.
6. A total of fifteen witnesses were examined by the prosecution including the medical experts and police. The witnesses may be categorised as follows:-

<u>Witnesses</u>	<u>P.W Nos.</u>
Doctors	P.W. 12 , P.W. 13 , P.W. 14 .
Police	P.W. 6 , P.W. 15 .
Relations of the victim and/or the accused persons	P.W. 2 , P.W. 3 , P.W. 5 , P.W. 7 , P.W. 8 & P.W. 1 , i.e, the complainant.
Neighbours from the village	P.W. 4 , P.W. 9 , P.W. 10 , P.W. 11 .

- 7.** The sui generis feature of the present trial is that, all the witnesses, who are not either the doctors or the police, have been declared hostile by the Court during the trial. Thus, so far as the substantive evidence is concerned, in this trial, practically the trial Court have been left with no material at all. On the backdrop of the outcome of trial as stated above, the trial Court has, by dint of its judgment as mentioned above, come to a finding of guilt of the accused persons/appellants, convicted and sentenced them.

- 8.** The trial Court directed the appellants to suffer rigorous imprisonment for seven years and to pay a fine of Rs. 2,000/- to the de facto complainant in default of which they were to suffer a further period of rigorous imprisonment of nine months, for the offence committed under Section 306 IPC. For the offence committed under Section 498A IPC the appellants to directed to rigorous imprisonment for a term of one year and pay a fine of Rs. 1,000/- to the de facto complainant or instead to suffer rigorous imprisonment for a further period of two months. The Court directed that both the sentence as above would run concurrently.

- 9.** The appellants are aggrieved with the said judgment of conviction and sentence. Hence this appeal.

10. The first and foremost ground for the appellants to challenge the said impugned judgment, as mentioned above, is that in absence of any substantive evidence and on the basis of the evidence of the hostile witnesses and the controverting evidence of the investigating officer as to the same, an order of conviction could not have been lawfully recorded by the trial Court. Mr. Mukherjee, who is representing the appellants, takes this Court in this connection, through the evidence of the witnesses and submits that the evidence lacks elements of credibility and reliability, so far as the aspect of the same leading to finding of guilt of the accused persons, is concerned. It has been shown that the witnesses by and large have denied any knowledge of them about the cause of death of the victim. It has also been shown that sometime the witnesses have stated to have deposed before the Court about the facts, for the first time only, raising serious doubts regarding the truthfulness of their deposition. It has also been pointed out that in spite of declaring them as hostile, in their cross-examination the prosecution has not been able to dislodge the truth they have deposed in their examination in chief. According to Mr. Mukherjee, not even any part of the evidence of these witnesses, are acceptable.

11. On this Mr. Mukherjee has relied on the following judgments:-

- (i) **2008 (1) CalLJ 279 (Golam Hossain & Seven & Ors. vs. The State),**
- (ii) **2012 (1) CalCrLR 838 (Amir Sk. @ Kachai vs. The State of West Bengal),**
- (iii) **(2002) 7 SCC 317 (Ashish Batham vs. State of M.P.),**
- (iv) **AIR 1981 SC 1062 (3) (Mohamad Usman Mohammad Hussain Maniyar & Anr. vs. The State of Maharashtra)**

12. Further it has been argued on behalf of the appellants that in this case neither the ingredients of offence under Section 498A and 306 of the IPC are established against the appellants nor the legal presumption under

Section 113A of the Evidence Act, 1872 is attracted against them. It is submitted that excepting lack of knowledge of the incident, the witnesses have practically deposed nothing before the trial Court. Also, that there is nothing to controvert such deposition of the witnesses. Under such circumstances no offence is at all suggested to have been committed by the accused persons, much less any grievous offence like that under Section 498A or 306 of the IPC. Mr. Mukherjee has further pointed out to the Court that the trial Court in its judgment, as mentioned above, has erroneously made the presumption of law under Section 113A of the Evidence Act, 1872, attracted to the instant case, merely on the basis of the fact that the victim had died within seven years time from the date of her marriage. It is argued that the law in this regard is now well settled that excepting the prosecution having been able to bring on record and prove the foundational facts through the evidence, in support of its case, the presumption as above would not be attracted. He says that on this score the finding of the trial Court regarding applicability of the said legal presumption is only erroneous and the resultant decision of the Court is faulty and illegal.

13. On this Mr. Mukherjee has relied on several judgments as mention below:-

- (i) 2013 (2) CalCrLR 882 (Narayan Chandra Nandi & Ors. vs. The State of West Bengal),**
- (ii) 2013 (3) SCC (Cri) 801 (Pinakin Mahipatray Rawal vs. State of Gujarat),**
- (iii) 2017 (2) CalCrLR 467 (Sahid Hossain Biswas vs. State of West Bengal),**
- (iv) 2020 (1) SCC (Cri) 379 (State of Madhya Pradesh vs. Shriram & Anr.)**
- (v) 2010 (1) SCC (Cri) 955 (Bhairon Singh vs. State of M.P.)**
- (vi) 2012 (1) CalCrLR 838 (Amir Sk. @ Kachai vs. The State of West Bengal),**
- (vii) 2013 (2) CalCrLR 381 (Monotosh Mondal vs. The State of West Bengal & ors.),**

- 14.** In addition to all above, Mr. Mukherjee has also relied on the judgment reported in *AIR 1995 SC 1601 (Sukhwant Singh vs. State of Punjab)* and *2013 (2) CalCrLR 395 (Uday Malik vs. State of West Bengal & Anr.)*, to submit as to what would be the effect of the prosecution witness being not examined and tendered for cross-examination.
- 15.** For the reasons as above, according to Mr. Mukherjee, the impugned judgment of conviction and sentence passed by the trial Court, as mentioned above, would not sustain in the eye of law and would liable to be set aside.
- 16.** So far as the prosecution is concerned, which is being represented by Mr. Dutta in this appeal, the legal propositions suggested by the appellants, have not been controverted in any serious tone. Mr. Dutta has fully relied on the available record and virtually accepts that there is no evidence for the prosecution in this case. Mr. Dutta too has emphasised that evidence of the investigating officer may not be the sole basis of conviction and may be only an effective tool for support or contradiction of the evidence of the vital witnesses. For the rest, he has left the matter at the discretion of the Court.
- 17.** The complainant and other witnesses who are the relatives of either the victim or the appellants, appear to have deposed in Court in the manner that the victim was married of to the appellant Krishnapada Mahato, five years back (from the date of evidence) and that the family of Krishnapada consisted of himself, his parents Nagendranath Mahato and Cheribala Mahato and his brother Adrista Mahato, all of whom are the appellants in the present appeal. Since after marriage the victim started her conjugal life in her matrimonial home and that she was leading a

peaceful life there. A daughter was born to the said wedlock of the victim and Krishnapada after three years of marriage on the Bengal date 16th Joisto. The witnesses were informed about the death of the victim and the witnesses were not aware as to how the victim died. Subsequent to the death of the person, a written complaint was filed by P.W 1 in Manbazar police station (as mentioned above), which was drafted by one Chittaranjan Mahato. P.W 1 said that the contents of the written complaint are true. They also said that prior to death of the victim no incident of acrimony between the victim and her in-laws were ever known by those witnesses. P.W.2, P.W.5 and P.W.8 say that they had never been interrogated by the police earlier, before deposing for the first time in the Court.

18. The village neighbours, i.e, P.W.2, P.W.9, P.W.10 and P.W.11 have deposed regarding their possessing no knowledge about the cause of the death of the victim, though all of them have asserted the fact of the victim's marriage with the appellant Krishnapada Mahato and victim's residing with other members at her matrimonial home, along with the said husband, before her death. Amongst these witnesses, P.W.9 and P.W.10 were tendered for cross-examination to the defence. P.W.11 in his cross-examination has said that he saw the appellants to behave properly with the victim before her death.

19. P.W.12, P.W.13 and P.W.14 are the doctors. P.W.12 has held inquest over the dead body immediately after death of the victim, who has identified his inquest report dated 30.05.2010. Notably, appellants Adrista Mahato and Krishnapada were the witnesses in the said inquest report. P.W.13 attended the victim when she was brought to the hospital and was still alive. He says that the victim was admitted in hospital at

9.30 a.m. in the morning. The condition of the patient has been described with the following words:-

“Patient was unconscious & not responding to any stimuli. She was gasping and was in a grave condition. On clinical examination she was clinically diagnosed as a case of most probably organo phosphorous poison. She was treated as early as possibly as necessary. All the efforts were in vain and the patient succumbed to death at 10.15 A.M.”

P.W.13 in his cross-examination has asserted that the patient was brought to the hospital by the appellant Krishnapada Mahato.

20. The autopsy surgeon, that is, P.W.14 has deposed regarding his findings with the following words:-

“On examination (1) reddish froth from mouth & nostrils was present (2) no external injury was seen (3) stomach multiple ulcers(sic) were present. Offensive smell about 200 ml. violet colour fluid was present. So viscera like stomach with contents part of liver and right kidney were sent to F.S.L. Kolkata for forensic/chemical examination. Findings suggestive of death due to poison. Final opinion kept reserved, until forensic opinion reports available.”

21. According to the evidence of P.W.13 and P.W.14 the cause of death of the victim was consumption of poison. It is also worth noting that no external injury mark was detected on the corpus.

22. All the witnesses of the prosecution excepting the doctors and the police have denied their knowledge about any astringency, animosity and hostility in the relationship of the victim with the appellants and also all

of them have denied any knowledge regarding the cause of death of the victim. The clinical reason could be found from the evidence of doctors, i.e, consumption of poison by the victim. The case started with the allegations in the FIR that the victim was forced to consume poison resulting to her death, due to the torture of the appellants which ultimately has turned out to be unbearable for her. However, the witnesses including the complainant have not aided to the prosecution case as above with any oral evidence, comprehensible as a basis of the prosecution's case.

23. The investigating officer, i.e, P.W.15 is however standing on a different footing, on the basis of the statement of the witnesses, recorded earlier by him and available in the case diary. He has deposed that the witnesses, who have been examined in this trial and were declared hostile, had earlier made statements regarding involvement of all the four appellants, in infliction of physical and mental torture upon the victim lady. His version is that the said witnesses made statement before him that the victim finding such immense torture as unbearable, committed suicide by consumption of poison.

24. This being the sum and substance of the prosecution's evidence in this case, the trial Court has dwelled upon the FIR and the presumption of law of guilt of the accused persons, as the victim died within seven years of her marriage, to come to the finding of guilt of the accused persons. The trial Court has also exercised certain amount of guess work by recording that the victim must not have been in a position to disclose her agony before any other and for that reason the victim could not disclose about the torture suffered by her to any other else. The trial Court has guessed that the reason of the victim giving birth to a female child, must

have been the definite cause of her being tortured by her in-laws which , according of the Court, is a general and common practice in the villages in West Bengal. The trial Court has also speculated on the fact that the witnesses were restrained from deposing actual facts in Court in consideration of the probable trouble trodden condition of the family for all future days to come. It records that the child of the victim being an infant and being in requirement of due care and protection for her proper upbringing, the witnesses must have considered the welfare of the child, in the hands of the appellants and restrained themselves to depose actual facts before the Court.

- 25.** On all these surmises and conjuncture, ultimately the Court came to the finding that the appellants were guilty of the offence under Section 498A, 306 and 34 of the IPC, convicted and sentence them in the manner as stated above.
- 26.** It is well settled law that according to the Indian criminal jurisprudence, every person accused of an offence is presumed to be innocent till he is proved guilty beyond all reasonable doubt. The onus, therefore, is heavily on the prosecution to prove and establish the offence against the person beyond reasonable doubt and that the burden never shifts on to the accused to disprove the charge framed against them, excepting the foundational facts consisting the said charges being sufficiently on record. In the event of a doubt, the benefit of the same should go to the accused person. Competence, relevance, materiality are the tenets which justifies the substantivity of a piece of evidence, in a trial. The admissibility of the evidence is based on its relevance, authenticity and value. Admissible evidence is factual, pertains to a specific case and

possesses a value that exceeds other considerations, such as bias or hostility to the substantial case of the prosecution.

- 27.** According to the stipulations in *Chapter- IV* of the Evidence Act, 1872, all facts in a trial would be proved by oral evidence, excepting the contents of documents or electronic records, which must only be direct oral evidence. Consistent and coherent circumstances are also relevant which provides background or context to a crime.
- 28.** The relevancy of evidence would depend on as to how far the same proves or disproves the points in issue, a fact or material. Reliability on the anvil of its truthfulness would determine its competence. That the evidence adds value or facilitates to establish a fact of the case, would determine how far the same is material to be accepted in a trial. Admissibility of the evidence would also depend on the fact that the same would not be outweighed by countervailing considerations. It needs no special emphasis to say that each and every evidence tendered in the Court may not be admissible, unless being tested and found satisfactory on the anvil of the afore stated benchmarks of relevance and reliability. It is the responsibility of the trial Court to assess the admissibility of the evidence in line with the law, ensuring a just and equitable legal process.
- 29.** In this trial the question before the Court is if the evidence of the hostile witnesses would be relevant and admissible as substantive evidence to bring home the charges alleged. Section 154 of the Evidence Act, talks about the hostile witness. This section enables the Court to permit the party to cross examine its own witness, who has become hostile. A witness is declared hostile and permitted to be cross examined, when he deposes contrary to his earlier statement and to the case of the prosecution.

30. What would be the credibility and value of a hostile witness, has been discussed and held by the Courts, in various judgments.
31. Before that, however, we may have a look to the necessary facts which the prosecution was required in this case to prove beyond a reasonable doubt, to actually bring home the charges against the accused person.

The Supreme Court in the case of **Pranagouda vs. State of Karnataka** reported in **2023 SCC OnLine SC 1369**, has held that *“The basic ingredients of an offence u/s 306 is suicidal death and its abetment thereof. To attract the ingredients of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide would be necessary.”* Therefore to prove an offence under Section 306 IPC the prosecution by way of producing substantive evidence is required to bring on record, firstly, the suicidal death of the victim and that the active and intentional inducement and instigation by the accused persons has resulted into the victim committing suicide.

So far as the offence under Section 498A IPC is concerned, it is about cruelty by the husband or relatives of the husband. The law provides that the term cruelty occurring in Section 498A would mean willful conduct of the accused persons of such a nature in order to drive the women either to commit suicide or to cause grave injury or danger to her life. Cruelty would also mean under the law, harassment of a woman with a view to meet any unlawful demand for property or valuables. Therefore the prosecution would also be required to bring evidence beyond any reasonable doubt that there has been the willful conduct or harassment committed upon the victim by the present appellants which has ultimately driven her to commit suicide.

32. Discussions have already been made in this judgment before, regarding what the witnesses have deposed in Court, in this trial. None of the witnesses have deposed about anything which may support the prosecution's allegations against the accused persons under the afore stated provisions of law. The Trial Court has heavily relied on the disposition of the complainant that he said on oath, in his cross-examination that, whatever was written there in the FIR, were true. The FIR having been proved by the scribe thereof, seem to have strengthened Court's hand, to take the same as sacrosanct, so far as the involvement and culpability of the accused persons in this case, is concerned. This approach and decision of the trial court is, unfortunately, not in accordance with the settled law. The FIR is a corroborative piece of evidence which would supply strength, credibility and support to the oral evidence of the maker thereof and the other witnesses. In absence of any oral evidence substantiating the case of the prosecution, the Court cannot decide regarding the existence of culpability of the accused persons only on the basis of the FIR. More so, the complainant merely stating that whatever is written in the FIR, are true, would not suffice for the purpose of establishing the facts through his deposition. It is necessary that the complainant and the other witnesses narrate and explain their knowledge about the facts relating and relevant to the commission of the alleged crime.

It has been held by the Hon'ble Supreme Court in the case of **Hasib vs. State of Bihar** reported in **(1972) 4 SCC 773**, "*the principal object of FIR from the point of view of informant is to set the criminal law in motion and from the point of view of the investigation authorities is to obtain information about the alleged criminal activity to take suitable steps for tracing and bringing to the book the guilty party. FIR does not constitute substantive evidence though its importance as conveying the earliest*

information regarding the occurrence cannot be doubted. It can, however, only be used as a previous statement for the purpose of either corroborating its maker u/s 157 of the Indian Evidence Act, or for contradicting him u/s 145 of that Act. It cannot be used for the purpose of corroborating or contradicting other witnesses.”

This law still holds the field and in a recent decision also the Supreme Court has reflected, in the same tune. The Supreme Court in the case of **Amish Devgan vs. UoI** reported in **2020 SCC OnLine SC 994**, has held that *“the FIR is neither defined in the Criminal Procedure Code nor is used therein, albeit it refers to the information relating to the commission of a cognizable offence. This information, if given orally to an officer in charge of the police station, is mandated to be reduced in writing. FIR is not meant to be a detailed document containing chronicle of all intricate and minute details. An FIR is not even considered to be a substantive piece of evidence and can be only used to corroborate or contradict the informant’s evidence in the court.”*

33. The other aspect required to be discussed is regarding applicability of the presumption of law, in this case. Undisputedly, the victim has died within a period of seven years from the date of her marriage. Section 113A of the Evidence Act has provided that ***“when the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband”***.

In the case of ***Kashibai vs. State of Karnataka*** reported in **2023 SCC OnLine SC 575**, the Supreme Court has held as follows:-

“Mere fact of commission of suicide by itself would not be sufficient for the court to raise the presumption under Section 113A of the Evidence Act, and to hold the accused guilty of section 306 IPC.”

Also noteworthy is the finding of the Supreme Court in the case of ***Gunmansinh vs. State of Gujrat*** reported in **2021 SCC OnLine SC 660**, that “...to attract the applicability of Section 113-A of the Evidence Act, three conditions are required to be fulfilled:—

- i. The woman has committed suicide,
- ii. Such suicide has been committed within a period of seven years from the date of her marriage,
- iii. The charged-accused had subjected her to cruelty.”

Therefore merely the person committing suicide within a period of seven years from the date of her marriage would not be sufficient to attract the said presumption of law, unless it is seen *prima facie* through materials that the charge sheeted accused had subjected her to cruelty. Trial Court has erred in considering this factor and merely proceeded on the presumption, on the ground and for the reason that the duration of marriage between the appellant no. 1 and the victim did not exceed seven years, which is a wrong proposition.

34. Having discussed all as above, let us now turn to the evidence of hostile witnesses and applicability and admissibility thereof. As a matter of fact, it is worth mentioning that in the judgment as impugned in this trial, the Trial Court has however, not founded its reasons on the evidence of the hostile witnesses but on certain other considerations, as discussed

above. However, in this appeal the principal ground of challenge of the appellants is of inadmissibility of the evidence of the hostile witnesses. In ***Satpal vs Delhi Administration*** reported in (1976) 1 SCC 727, the Supreme Court has said that merely because the prosecution has chosen to treat its witness as a hostile witness, it cannot make the evidence of such a witness totally null. The Court said that if the witness is an unfavourable witness who has failed in proving a fact, then the evidence of such a witness can't be effaced. The Court can still rely on and appreciate the statement made by the hostile witness. It can be accepted as evidence to the extent that the statement is found to be credible or authentic and inspires credit.

35. In ***Atmaram and Ors vs State of MP*** reported in (2012) 5 SCC 738, the Supreme Court held that inconsistency in the statement of the prosecution's witness cannot make the whole statement invalid. If the judge feels that the character of the witness has not been completely shaken or that his credit is still worthy of trust, then with due care and caution, such statement or evidence may be accepted by the court. However, if the whole of the testimony of a hostile witness stands in contradiction to every statement made earlier and is impugned, then such a statement can't be treated as evidence in a court of law. The judge may, in his opinion, discard the evidence in toto.

36. In ***Hemudan Nanbha Gadhvi vs State of Gujarat*** reported in (2019) 17 SCC 523, the Supreme Court has gone to the extent to say that the Court's time is very precious, and if, because of any witness, the judicial proceedings are affected and subverted, then the court cannot remain silent on such behaviour of the witness. The court must make efforts to bring truthfulness to such a witness. It said that our justice system can't let such witnesses divert the proceedings from reaching the truth. It said

that if the witness gives testimony under any kind of threat or undue influence, the Court must scrutinize it. That, only credible and reliable evidence is appreciated in the Court of law, not those that are tainted and unworthy of credit.

- 37.** Therefore, undeniably, a witness having been declared as hostile, is not discarded outright and as a whole. Even part of his deposition is worth credence, if fortifies substantive evidence of the other witnesses.
- 38.** In this case it is required to be seen that if there has been any evidence in this trial of sufficient value, on which prosecution's case could really rest.
- 39.** The evidence as produced before the trial Court may once again to be looked into. None of the witnesses have ever asserted the fact regarding his or her knowledge about cause of death of the victim. The autopsy surgeon has opined in the post-mortem report that the immediate cause of death is administering poison. Even the autopsy surgeon has failed to come to any conclusion regarding the suicidal nature of death of the victim, with the further finding that no external injury was there.
- 40.** So far as the ingredients of offence either under Section 498A or 306 of the IPC, as mentioned above, the same are not available from the evidence on record. Therefore, in this case neither the suicidal death of the victim nor any harassment or cruelty caused upon her by the appellants or any abetment by the appellants resulting into the death of the victim is at all suggested from the evidence on record.
- 41.** No doubt the Investigating Officer in his deposition and by referring on the statement available in the case diary has submitted that the other

witnesses of the case, while making statement to him, have stated about the torture being inflicted by the appellants upon the victim and the victim having committed suicide for the reason of such torture only. The same is in contradiction to what the witnesses have stated in trial. Such contradiction is fatal to the prosecution case. It is a trite that any conviction cannot be based solely on the evidence on the Investigating Officer, unless there are other substantive evidence of the witnesses available, to bring on record the relevant facts, which are supported by such evidence of the investigating officer. As a matter of fact, the comparative weightage, restored upon the evidence of the vital witnesses, is much more and the evidence of the Investigating Officer is to be taken into consideration for the purpose of corroboration or contradiction of the same only.

- 42.** Thus it appears that the trial Judge has proceeded on absolutely erroneous considerations, which are not abiding by the law as prevailing. The evidence on record would not prompt the Court to find that the prosecution has been able to prove the case, i.e, for offence under Section 306 and 498A of the IPC, beyond scope of all reasonable doubt. In fact there would not be any substantive evidence available against the appellants. On the premises as above this appeal should succeed.
- 43.** Criminal Appeal No. CRA 524 of 2021 is allowed.
- 44.** The impugned judgment of conviction and sentence dated 18.07.2012 and 19.07.2012 respectively, passed by the Additional Dist. & Sessions Judge, Fast track, 3rd Court, Purulia, in Sessions Trial No. 03/12 under Sections 498A/306/34 IPC, is set aside. The appellants/accused persons are found not guilty of the offence under Section 498A and 306 IPC and released immediately.

- 45.** Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, upon compliance of requisite formalities.

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(Rai Chattopadhyay,J.)