

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

Present:

The Hon'ble Justice Rai Chattopadhyay

C.R.A No. 555 of 2010

Mantu Bhuia

Vs.

State of West Bengal

Judgment on: 18/05/2023

Mr. Provas Bhattacharya ..For the State.

Rai Chattopadhyay,J.

(1) In this appeal the appellant/complainant has challenged the judgment and order of the ACJM, Bishnupur and 31.03.2010.

The judgment was delivered in Case No. 77C/2005.

(2) The private respondents were tried for an offence under Section 489(C) of the Indian Penal Code. In absence of any sufficient evidence to have been proved against them, the trial Court has acquitted the said accused persons. This appeal has been filed to assail the said impugned judgment of the trial Court.

(3) This appeal has been filed in the year 2010 and pending since then.

(4) This appeal has been listed before this Court on 22.03.2023. Since the date of listing of this appeal before this Court, the same

has been called on for twice, on each date of Court's functioning. However, no one has appeared either for the appellant or the State. Thus, in this appeal, it is found that the appellant has had a reasonable and sufficient opportunity of being heard, which he did not avail in spite of the appeal being pending and called on for a considerable period of time.

(5) It is also noted that during the time the present appeal has been pending before this Court and called on, no pleader for the appellant has also represented him, in spite of there being sufficient scope for him to appear to represent the appellant. Accordingly it is found that pleader on behalf of the appellant, if there is any, has also not availed the opportunity to represent the appellant in spite of there being sufficient scope and reasonable opportunity for that.

(6) Under such circumstance this appeal may be taken up for final determination, which shall not be in contravention and hostility with the provision under Section 384 (1) proviso (a) of the Cr.P.C.

(7) On perusal of the record it is also found not necessary to call for the record from the trial Court in connection with C-854 of 2008.

(8) The complainant's case in brief is that the complainant Smt. Kalyani Ruidas lodged a complaint against the accused Madhab Ruidas, Smt. Bharati Ruidas and Chittaranjan Ruidas alleging that on 30.11.04 at about 9 a.m. the accused persons entered into the house of complainant by breaking padlock in the absence of

complainant and took away some utensils, cash, table fan, wall clock and radio. The value of those articles is about Rs. 8000/-/ The complainant just after the incident came to the spot and tried to restrain the accused persons. The accused no. 2 Bharati Ruidas assaulted the complainant by pulling his hair and the accused no. 1 and 3 assaulted her by fists and the accused no. 1 & 3 torned the blouse of complainant and molested her by putting their hands in the chest. Witnesses came to the spot by hearing hue and cry of the complainant and rescued her from the clutch of the accused persons, otherwise, the accused person would kill her. The complainant informed the matter to the Bishnupur P.S. but the police did not pay any head. Lastly on 15.8.05 the police denied to take any action against the accused persons and advised her to take shelter before the court. Therefore, the delay has been caused to file this complaint. The complt. Did not examined by the doctor. She also stated that a dispute was going on in between the complainant and the accused persons over the issue of landed property and the accused persons caused such incident due to rivalry. A description of land has been given by the complainant.

(9)On the perusal of the certified copy of the impugned judgment it appears that the trial Court, in the same, has elaborately and categorically discussed on the evidence available before it, both ocular as well as others. The trial Court has analyzed the same and

after through scrutiny, has come to a finding and decision which is a just, reasonable and plausible view, on the basis of the available evidence.

(10) This Court finds no cogent or sufficient reasons to interfere with such plausible decision, arrived at by the trial Court on the basis of the evidence on record. Hence, it is found that there is no sufficient ground for this Court to interfere with the finding of the trial Court and its decision in the impugned judgment and order. Hence, the appeal merits no success.

(11) Therefore, upon examining the petition of appeal and the copy of the impugned judgment and upon finding that there is no sufficient ground for interfering, CRA 555 of 2010 is dismissed in terms of the provision under Section 138 and 141 of the Negotiable Instrument Act.

(12) Urgent certified copies of this judgment, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Rai Chattopadhyay, J.)