

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

Present:

The Hon'ble Justice Rai Chattopadhyay

C.R.A No. 603 of 2010

Mantu Bhuia

Vs.

State of West Bengal

Judgment on: 18/05/2023

Rai Chattopadhyay, J.

- (1) In this appeal the appellant/complainant has challenged the judgment and order of the Additional District and Sessions Judge, Fast Track, 2nd Court, Contai dated 30.03.2010 and 31.03.2010. The judgment was delivered in S.T. Case No. 4 of 2008.
- (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)** Fact of this case, in short, is that Bijala Bhunia went to the Khejury police station on 8.9.2003 and lodged one written complaint addressing to the officer-in-charge and stating that she was married with Mantu Bhunia 17 years ago according to the Hindu rites and customs. After marriage, due to their wedlock,

Bijala gave birth of three children. Her husband, namely Mantu Bhunia married second time, two months before, and since second marriage her husband Mantu Bhunia being associated with the other accused persons are inflicting physical and mental torture upon her. On 3.9.2003, in the evening, all the accused persons with intention to commit her murder assaulted her on her head by dint of an iron rod causing severe bleeding injury. Bijala Bhunia has informed the Khejuri police station by lodging diary number 119. The accused persons obtained bail from the Contai court. After returning from Court, at night, at about 11 PM, all the accused persons entered into the room of Bijala. Her husband Mantu Bhunia caught hold her hair and pushed her to fall on the ground. Other accused persons assaulted her by kicks, fists and blows on her chest and abdomen. Out of fear of death the complainant Bijala Bhunia raised shouting in order to get help. The accused Mantu Bhunia did tear her wearing apparels and made her naked. He also tried to strangle her by dint of her wearing cloth. All the other accused persons also assaulted her by kicks. At that moment, some local people arrived at the spot and rescued her from the clutch of accused persons. The complainant Bijala Bhunia was medically treated in the Kamarda hospital. Since she was remaining under medical treatment, delay was caused to lodge the written complaint.

- (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 603 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.)