

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION**

Present:

The Hon'ble Justice Tirthankar Ghosh

C.R.A. (SB) 17 of 2023

Srabani Sadar @ Sraboni Sardar & Anr.

-Versus-

The State of West Bengal

With

C.R.A. (SB) 44 of 2023

Lakshmi Mondal @ Lakshi Mondal & Anr.

-Versus-

The State of West Bengal

For the Appellants : Mr. Arnab Sinha,
Mr. Amartya Basu,
Ms. Asama Biswas.

For the State : Ms. Sreyashee Biswas,
Ms. Eshita Dutta.

Hearing Concluded On : 02.09.2024

Judgement On : 30.09.2024

Tirthankar Ghosh, J. :

The present appeal has been preferred against the judgment and order of conviction and sentence dated 19.12.2022 and 20.12.2022 passed by the Learned Additional Sessions Judge, Fast Track 1st Court, Howrah in Sessions Trial No. 314 of 2017 wherein the learned trial Court was pleased to convict the all appellants under Sections 498A/34 of the Indian Penal Code and the

appellants Lakshi Mondal and Biswajit Mondal under Sections 306/34 of the Indian Penal Code and sentence them as follows:

- (i) (a) For the offence under Sections 498A/34 of the Indian Penal Code - the appellants Smt. Srabani Sardar and Anath Sardar (Appellants in CRA (SB) 17 of 2023) were sentenced to suffer Rigorous Imprisonment for 02 (Two) years and pay a fine of Rs. 2,000/-, in default, to suffer further Rigorous Imprisonment for 06 (Six) months.

(b) The appellants Biswajit Mondal and Smt. Lakshi Mondal (Appellants in CRA (SB) 44 of 2023) were sentenced to suffer Rigorous Imprisonment for 02 (Two) years and pay a fine of Rs. 2,000/-, in default, to suffer further Rigorous Imprisonment for 06 (Six) months.
- (ii) For the offence under Section 306 read with Section 34 of the Indian Penal Code – the appellants Biswajit Mondal and Smt. Lakshi Mondal were sentenced to suffer Rigorous Imprisonment for 7 (Seven) years and to pay a fine of Rs. 5,000/- in default to suffer further Rigorous Imprisonment for 1 (one) year.

Domjur P.S. case no. 505/2017 dated 18.06.2017 was registered for investigation under Sections 498A/302/34 of the Indian Penal Code on the basis of written information submitted by Alok Hazra (father of the deceased)

with the Officer-in-Charge, Domjur Police Station. The allegations made in the written information were to the effect that on 18.11.2012, Amrita Hazra, daughter of the complainant was married to Biswajit Mondal. The marriage was solemnized according to Hindu Rites and Customs. After marriage Amrita (deceased) started leading her conjugal life with the accused Biswajit at her matrimonial home and a male child was born to the couple. The marital life of Amrita was not happy, as she used to be physically and mentally tortured by her husband and in-laws. On 17.06.2017 at about 10:00 P.M. the deceased Amrita informed her father who was at Delhi over phone about the torture being inflicted upon her. On 18.06.2017 at about 4:00 A.M. her father was informed over phone that his daughter Amrita was no more. On hearing such information, the complainant rushed back from Delhi, and as per his instructions, the written complaint was prepared and submitted with the Officer-in-Charge, Domjur Police Station. It was categorically informed in the written complaint that on 17.06.2017 from 8:30 A.M. in the morning the accused persons inflicted physical and mental torture upon the deceased and asked her to consume poison, on that day, at about 11:00 P.M. The accused persons forcibly administered poison to her, as a consequence of which, on 18.06.2017 at late night she started vomiting and became sick thereafter she was shifted to Domjur hospital, wherefrom she was referred to Medical College and Hospital, however she had been taken to one Besubon (sic) Nursing Home and then shifted to Green View Nursing Home, where she was declared dead by the doctor.

On receipt of the complaint the Officer-in-charge, Domjur Police Station was pleased to endorse the case to Priyanka Mondal (P.W.13), Sub-Inspector of Police attached to Domjur Police Station. The Investigating Officer on completion of investigation submitted charge-sheet before the learned C.J.M. Howrah. As the offences complained of in the charge-sheet were Sessions triable offences i.e. under Sections 498A/302/34 of the Indian Penal Code, the learned C.J.M. Howrah, after compliance with the relevant provisions of law, was pleased to commit the case to the learned Sessions Judge, Howrah and finally the proceedings along with the case records were transmitted to the learned Additional Sessions Judge, Fast Track 1st Court Howrah, for trial and disposal. The learned Trial Court on 08.02.2018, was pleased to frame charges against all the four accused persons, under Sections 498A/34 and 302/34 of the Indian Penal Code. The contents of the charges were read over to the accused persons who pleaded not guilty and claimed to be tried.

Prosecution in order to prove its case relied upon 18 witnesses which included, P.W.1, Alok Hazra, complainant and father of the deceased; P.W.2, Kalyani Mondal, a neighbour of the matrimonial home; P.W.3, Krishna Mondal, a neighbour residing near the matrimonial home; P.W.4, Subrata Mondal, a neighbour residing near the matrimonial home; P.W.5, Ayush Mondal, son of the deceased; P.W.6, Priyabrata Mondal @ Ramesh, a neighbour residing near the matrimonial home of the deceased; P.W.7, Arup Halder, a driver who took the deceased to Domjur Hospital by car; P.W.8, Bandana Hazra, mother of the deceased; P.W.9, Gita Chakraborty, an acquaintance of

the deceased; P.W.10, Sarbeswar Mondal, Executive Magistrate who conducted inquest; P.W.11, Amitabha Chattopadhyay, Medical Officer who prepared the post-mortem report; P.W.12, Jyotirmoy Mondal Sub-Inspector of Police who held surathal examination; P.W.13, Priyanka Mondal, Investigating Officer of the case; P.W.14, Pritamana Nanda, Judicial Magistrate who recorded statements of four witnesses under Section 164 Cr.P.C.; P.W.15, Soumya Chatterjee, Judicial Magistrate who recorded the statement of Ayush Mondal, son of the deceased; P.W.16, Dr. Mala Chatterjee, Medical Officer attached to Domjur Rural Hospital who initially examined and treated Amrita Mondal; P.W.17, Dr. Subha Hazra, scientific Officer who examined the sample of the viscera of the deceased; P.W.18, Dr. Amitabha Chattopadhyay, post-mortem doctor.

P.W.1, Alok Hazra is the complainant and father of the deceased who deposed before the Court that he had two daughters, namely Arpita Hazra and Amrita Hazra and both of them were married. Amrita (deceased) was the younger daughter and on 18.11.2012 her marriage was solemnized with Biswajit Mondal. A male child was born to them who was named as Ayush. After marriage, Amrita started to reside with her husband at her in-law's house. The members of the matrimonial home of Amrita consisted of her husband, mother-in-law, father-in-law and the sister-in-law used to visit frequently along with her husband. Amrita was not at all happy as there was a constant bickering between the couple and as such she was physically and mentally tortured. She died on 18.06.2017 as she was poisoned to death. He

further deposed that he came to know from the neighbours of the matrimonial home of Amrita that she was poisoned and from the morning of 17.06.2017, the accused persons started quarrelling with her and was not offered any food and further she was threatened to death. At about 10 P.M. on 17.06.2017, Amrita rang him over phone and narrated the incident which had taken place on that date and requested him to take her back from her matrimonial home. In the early morning of 18.06.2017, at about 4 A.M., he was informed over phone that Amrita was no more. At the relevant point of time, he was at Delhi and came down on the same day at about 10.00 A.M. and went to Domjur Police Station. He dictated a written complaint which was drafted by Ram Chandra Hazra, his elder brother. He identified the written complaint and his signature which was admitted in evidence. He also identified the accused Biswajit, Srabani and her husband Anath in Court. However, as the other accused Lakshmi Mondal was not present in Court, there was no scope for identification. In cross-examination he stated that his elder daughter stayed at Delhi and at the relevant point of time he visited her house. He also informed the Court that he came to know regarding the incident over phone from Biswajit Mondal. He further replied in cross-examination that there were frequent quarrel between Amrita and her husband. The witness confirmed in cross-examination regarding the receipt of telephone call from Amrita at 10 P.M. on 17.06.2017 and the request made by her was to bring her back to her paternal home. He denied the suggestion that Amrita committed suicide by poison due to her affair with Santi Das. The witness was recalled and his

signature in the two inquest reports prepared in connection with the instant case were shown, which was identified by him and the same was admitted in evidence.

P.W.2, Kalyani Mondal is a neighbour who identified the accused Biswajit Mondal, his sister and her husband in Court. She deposed that her residence is situated in front of the house of Biswajit and proceeded to state that the deceased Amrita had a troubled marital life, as the couple used to quarrel frequently. There was also frequent quarrel between Amrita and her mother-in-law. She identified Srabani as the married sister in-law and Anath Sardar as her husband and stated that they also joined quarrel whenever they used to come at the matrimonial home of Amrita. She further deposed that Amrita died due to poisoning. On the day of the incident, there was a dispute going on at Biswajit's house from early morning and the quarrel continued throughout the day and night. At about 1:00 A.M. she found that the quarrel at Biswajit's house was still continuing and at 5:00 A.M. she saw an ambulance in front of Biswajit's house with Amrita's body being kept inside. Arup, Ramesh and few persons were there and when she asked them what happened to her, they informed her that Amrita had been poisoned. She was examined by the Police in connection with the instant case and she also narrated the incident to a judge of a Court who recorded her statement under Section 164 of Cr.P.C where she signed. She was shown her signature in the statement under Section 164 Cr.P.C. which was admitted in evidence. In cross-examination, she replied that whatever she had deposed in Court she also informed the Police authority.

On a specific question in cross-examination, she replied that she came to know afterwards that Amrita died by consuming poison. She also replied in cross-examination that she could not ascertain the reason of dispute which continued throughout the day prior to the death of Amrita. However she did not try to stop the quarrel between the couple.

P.W.3, Krishna Mondal is a neighbour residing near the matrimonial home of the deceased who identified the accused Biswajit Mondal, Srabani Sardar and Anath Sardar. She stated before the Court that her house is beside the house of the accused Biswajit. Biswajit's family consisted of his mother and sometimes his married sister used to visit the house. She also stated that initially Amrita had a normal married life. However, trouble with the husband and mother-in-law surfaced afterwards and Amrita died in the month of Ashar about a year ago and she could gather from the crowd in front of Biswajit's house that Amrita had been poisoned to death. In cross-examination, she replied that she usually goes to bed at about 10.00/10.30 P.M. every day and the conversation which took place at Biswajit's house was not audible to her. She further replied that Biswajit's sister was Srabani and she heard that Amrita had been poisoned but she do not know from whom she got this information.

P.W.4 is Subrata Mondal, a neighbour of the matrimonial home of the deceased who stated that his house is just in front of the house of Biswajit. He stated to the Court that there were frequent quarrels between Amrita on the

one hand and Biswajit and his mother on the other hand. He proceeded to narrate that about a year ago, Amrita died as she was administered poison and at about 10.00/10.30 P.M., when he was strolling on the pathway by the side of his house, Biswajit called him and reported to him that Amrita used to chat with a man on WhatsApp. He advised Biswajit to amicably settle the matter and not to quarrel with Amrita, he thereafter returned to his home as he was to visit a doctor at Bhadreshwar early next morning. At about 2/2.30 A.M. his brother Ramesh woke him up and called him outside the house, informing that something had taken place at Biswajit's house. He immediately visited Biswajit's house and asked him as to what happened. He detected strong smell inside Biswajit's house and found that no information was sent for ambulance. He along with his brother called a Maruti car and his wife also went at Biswajit's house and forced Amrita to drink tamarind water. At that point time, Amrita with her left hand clasped the kid and with her right hand held the collar of Biswajit and as such she was not in a position to speak up. After a short while, she was shifted to Domjur hospital where the incident was narrated to the Police. His statement was also recorded before a Judge in the Court where he appended his signature in the statement under Section 164 Cr.P.C., the same was shown to him which was identified and was admitted in evidence. He identified all the accused persons in Court. In cross-examination he replied that on the following day of the incident Police examined him. He confirmed in his reply that he had been to Biswajit's house in the night and also accompanied Amrita when she was shifted to hospital. On a specific query

in cross-examination, he replied that whatever he had heard from Biswajit about Amrita and about WhatsApp texting, he did not hold any opinion that she was engaged in an illicit relationship. A specific question was asked to the witness whether it is his guess that Amrita was administered poison to which he answered that the deceased indicated that she was given poison.

P.W.5 is Ayush Mondal, son of the deceased, who deposed that Amrita Mondal was his mother and Biswajit Mondal is his father. His mother was struck with lathi by Biswajit and she was administered poison by him. As a result froth was coming out from her mouth from which he could understand that she was administered poison. He further deposed that his mother is no more and as such he has earlier told this incident before a Judge. In his cross examination he replied that he was inside the room at the relevant point of time and his mother was lying down. She had vomited and he had not been to any place on that day. He narrated the incident to Dadu and Dida and no one else. In cross-examination he also replied that after giving his statement to the Judge he returned to the house.

P.W.6 is Priyabrata Mondal @ Ramesh, a neighbour who deposed that his house is situated in front of Biswajit's house and this witness narrated the incident in the same manner as PW2, PW3 and PW4.

P.W.7 is Arup Haldar, a driver who had taken the deceased to Domjur Hospital. The witness deposed that he was acquainted with Biswajit who married Amrita who is no more. According to him, Amrita died after

consuming something. He being a driver by profession was possessing a Maruti van who was called by Priyabrata (P.W.6). He was informed that Amrita was sick and had to be shifted to hospital, as such, he took his car and shifted Amrita to Domjur Hospital. At that time, Biswajit, his mother and two of Biswajit's neighbours had come along with Amrita in the car. Amrita had froth oozing from her mouth and the doctor of Domjur hospital advised them to shift Amrita to Howrah Hospital or to Calcutta Medical College and Hospital. An ambulance was thereafter arranged, which had the facility for availing oxygen to patients. Amrita was also administered saline. He did not go along with the ambulance. However, he narrated the incident to police after two or three days of the incident and his statement was also recorded by a Judge. He identified his signatures in the statement under Section 164 of the Code of Criminal Procedure. He also identified the accused Biswajit and his mother in Court. In cross-examination he replied that on the day when he went to the Court, he was accompanied by Kalyani, Priyabrata Mondal and Huda.

P.W.8 is Bandana Hazra, mother of the deceased, who deposed that Amrita was her daughter and married to Biswajit. After marriage, Amrita resided at her matrimonial home. According to her, Amrita did not have a happy married life and there were frequent quarrel and she used to be assaulted also. Biswajit and his mother were the main perpetrators and when Biswajit's sister and her husband used to visit her matrimonial home, the situation became bleak. Additionally, she deposed that she got this information from the deceased Amrita when she would come to her house. Amrita is no

more. According to her, accused persons poisoned her to death. The incident took place on 18.06.2017 which was a Saturday and at about 2.00/2.30 A.M. She identified all the accused persons in Court. In cross-examination she answered that she often visited Amrita's matrimonial home but was not ill-treated during such visits. On the issue relating to quarrel or Amrita being assaulted, she replied that she never lodged any complaint with the panchayat or the Police regarding Amrita being tortured by the accused persons. However she categorically stated that she did not know any person by the name of Santi Das and also denied having any knowledge regarding texting on WhatsApp by Amrita at the night of the incident.

P.W.9 is Gita Chakraborty, an acquaintance of the deceased who deposed that Amrita had speaking terms with her and whenever she used to meet Amrita, she informed her that she was having a troubled marital life. Additionally, she deposed before the Court that whenever her sister-in-law and her husband used to visit her matrimonial home, the situation would become worse. She also informed the Court that Amrita died on 18.06.2017 and at about 5.00 A.M. in the morning, she received a phone call. According to her, she was told that Amrita had been killed by the accused administering poison. She identified all the accused persons in Court and informed that on 19.06.2017, she was examined by the Police when they came to her house. In cross-examination, she denied of knowing any person by the name of Santi Das and further stated that last time she came in touch with Amrita was prior to her parents leaving for Delhi.

P.W.10 Sarbeswar Mondal, Executive Magistrate who conducted the inquest over dead body of Amrita Mondal in connection with UD Case No. 61/17 dated 18.06.2017. He deposed that he performed the inquest at Domjur Police Station. The inquest report was prepared and signed by him. He also identified his official seal. The inquest report was admitted in evidence. The witness on being cross-examined replied that he was not aware regarding any UD Case at the time of and during his inquest and the dead body was identified to him by the father of the deceased. At the relevant point of time, the brother and uncle of the deceased were also present. Additionally, in cross-examination he replied that he could not detect any poison, but he wrote poison in the report on the basis of the statements made by the witnesses at the time of inquest.

P.W.11 is Amitabha Chattopadhyay, Medical Officer attached to Howrah District Hospital who deposed that on 18.06 2017, he conducted the post-mortem examination over the dead body of Amrita Mondal Hazra in connection with Domjur P.S. UD case No. 61/17 dated 18.06. 2017. The dead body was identified by a Constable who inspected the inquest report at the time of his examination and on examining he noticed that the mucous membrane of the stomach of the deceased was congested and the stomach had deep yellow-coloured liquid weighing approximately three ounces which had a pungent smell. The condition of the stomach reflected a possibility of poisoning. It is as a result of poisoning a pungent smell was coming out of the stomach. He identified the post-mortem report along with his signature and the seal which

was admitted in evidence. In cross-examination he replied that the dissection commenced at 3.40 pm and opined the time of death in his report. He explained the meaning of the word pungent. However, he categorically stated that he could not say with certainty whether the yellow-coloured liquid was poison or not. He also replied in cross-examination that there was no visible injury and he could not find any injury on the outer or inner side of the dead body.

P.W. 12 is Jyotirmoy Mondal, Sub-Inspector of Police attached to Domjur Police Station who on 18.06.2017 conducted the surathal examination of the dead body of Amrita Mondal. He deposed that the B.D.O. also performed an inquest over the same dead body in his presence. He identified the photostat copy of the surathal report with his signature and stated that the original document was sent to the morgue. He identified the dead body challan with his signature on it which was admitted in evidence. In cross-examination he replied that he was aware regarding the husband of the deceased as Biswajit but the surname was mistakenly written.

P.W.13 is Priyanka Mondal, Investigating Officer of the case who deposed that she was endorsed the case by Sub-Inspector Alok Mondal. After getting charge of the case she went to the place of occurrence at Uttar Jhapardaha, Mondal Para at the house of Biswajit Mondal and prepared a rough sketch map along with index. She further narrated that a strong smell of medicine or fertilizer was present at the house of Biswajit and she intended to search the

origin of the smell but could not find anything. Few witnesses were examined by her. She arrested the FIR named accused persons and forwarded them to Court. On 19.06.2017 she went to the paternal house of the deceased to examine Ayush Mondal (child). She also examined other witnesses including mother of the deceased and seized the copy of the marriage registration certificate along with the photograph of the mother of the deceased. On 26.06.2017 she went to the locality of the accused and examined some of the witnesses and on 22.06.2017 she sent Priyabrata Mondal, Subrata Mondal, Kalyani Mondal and Arup Halder to Court for recording their statements under Section 164 of the Code of Criminal Procedure. On 23.06.2017 she sent the child Ayush Mondal to Court whose statement was recorded under Section 164 of the Cr.P.C. Subsequently she collected the copies of the statements under Section 164 of the Code of Criminal Procedure. On 09.07.2017 she seized the wearing apparels of the deceased from the Dom and collected the post-mortem and surathal reports from the Enquiry Officer of the UD Case No. 61 of 2017 dated 18.06.2017. On 11.08.2017 she sent the viscera of the deceased for forensic examination through the Learned C.J.M., Howrah. On 02.09.2017 she again went to the house of the accused to search for a mug as the child in his statement disclosed regarding the mug, however nothing was found. On 08.09.2017 she submitted charge-sheet against the four accused persons namely Biswajit Mondal, Laxmi Mondal, Anath Sardar and Srabani Sardar.

P.W.14 is Pritamana Nanda, Judicial Magistrate who recorded the statement under Section 164 of Cr.P.C. of Brihobrata Mondal @ Ramesh, Arup

Haldar, Subrata Mondal and Kalyani Mondal. She identified her signature and the certificate which was issued by her and the same were admitted in evidence. She further stated that she knew the name of the persons from the Constable who identified them.

P.W.15 is Soumya Chatterjee, Judicial Magistrate who recorded the statement of the child Ayush Mondal. The learned Magistrate deposed that the child was identified by a Constable and before recording the statement he tested the competence of the witness by asking him 13 questions and after being satisfied he recorded the statement. After the statement was recorded the child witness appended his LTI on the pages. The statement including his signature and certificate was identified by him and as such admitted in evidence. In cross examination he replied that the witness did not tell him that his father beat his mother with a stick.

P.W.16 is Dr. Mala Chatterjee, Medical Officer attached to Domjur Rural Hospital who deposed that she examined one Amrita Mondal wife of Biswajit Mondal at about 2.50 A.M. on 18.06.2017 who was brought by Biswajit Mondal and Lakshmi Mondal. At the time when the patient was brought she was unconscious and froth was coming out. Pupils were pin pointed, there was crepitation in the chest. The patient was administered Atropine injection and decadron was also injected. She was given rantac, Oxygen, normal saline, lasix and pralidoxine. The patient was thereafter referred to Medical College and Hospital or Howrah District Hospital. She stated, according to the husband

there were family tension and a quarrel in the evening. She gave a view that the patient exhibited symptoms of unknown poisoning. She identified the certified true copy of the emergency record of the rural hospital which was admitted in evidence. On the same day at about 7.50 A.M. the patient was again brought to the rural hospital and at that time the patient was dead. The fact was noted in the register and the B.M.O.H. certified the copy. Police was informed and inquest was performed by the Police authority, when she signed the inquest report she identified the signature which was admitted in evidence. In cross-examination she replied that she could not give stomach wash as the patient was in a critical condition.

P.W. 17 is Dr. Shubo Hazra, a Senior Scientific Officer who examined the viscera of the deceased, he deposed that in connection with Domjur P.S. case No. 505/17 dated 18.06.2017 and on 11.08.2017 he received the article which consisted of a paper packet marked 'A' containing plastic jar, wherein sample of viscera was there. The same was examined and on examination he did not find any poison to be detected in the viscera of Amrita Mondal. He further opined that non-finding of traces of poison may be because of many reasons, one of which may be lapse of time from the date of occurrence to the date of examination. He also assigned the reason that in course of treatment the patient may be administered some medicines which may also eradicate the trace of poison. Next reason he assigned that the patient immediately if she vomits as well and froth comes out from the mouth, the poison may not be detected. He identified the report which was signed by him along with his

designation, the same was admitted in evidence. In cross-examination he replied that neutralization of poison depends on the character or the type of poison. While some poison takes long time to neutralize, other poison may not take much time. He further replied in cross-examination that there are some certain principles and also some uncertain principles for neutralization of poison which depends from one case to the other and it is not possible for him to determine whether the deceased died due to effect of poisoning or not, as no trace of poison could be detected by him.

P.W. 18 is Dr. Amitabh Chattopadhyay, the post-mortem doctor who deposed before the Court that he conducted the post-mortem in connection with Domjur P.S. UD Case No. 61/17 dated 18.06.2017. He narrated that the body was identified by a Constable and in the P.M. report he wrote that his opinion was pending subject to receipt of final report of the FSL as there were some findings in the P.M. report. The final opinion was after receipt of the FSL report that it was death due to effect of poisoning, anti-mortem in nature. He identified the post-mortem report along with the final opinion prepared by him, which was marked in evidence. In cross-examination he replied that he was waiting for the FSL report for drawing his final opinion as the stomach materials collected in post-mortem of the deceased revealed pungent smell which might be the abnormal cause for the death. He also replied that he did not get any external and internal injuries in the body of the deceased.

Learned advocate appearing for the appellant argued that the prosecution version is inconsistent so far as the evidence relating to all the appellants are concerned and the appellants have been victimized unnecessarily. It was submitted on behalf of the appellant that so far as the sister-in-law and her husband (the appellants in Criminal Appeal No. 17 of 2023), there are no allegations against them, yet they have been implicated in the criminal case and had to face the ordeal of trial. In addition, they were convicted for the offence under Section 498A of the Indian Penal Code, being sentenced for two years with fine. On behalf of the appellants it was canvassed that majority of the witnesses complained of quarrel, which was restricted mainly to the husband and occasionally with the mother-in-law. However, the sister-in-law and her husband were residing at a separate place and used to visit the paternal home for which they have been implicated. No where in the evidence there has been any demand of dowry and the only incriminating material which has been repeatedly stated is 'quarrel' and nothing else. Further, the relations of the deceased tutored the child, as such he deposed against his father and the other appellants in such a manner that the same runs contrary to the evidence of the case. It was further canvassed before the Court that the FSL expert, i.e. P.W. 17 (Scientific Officer) could not give any opinion as no traces of poison could be detected in the viscera of the deceased. Surprisingly, the post-mortem doctor, who initially could not give any opinion, subsequently gave an opinion that the cause of death of the deceased was because of poisoning. It was therefore reiterated that even the opinion of the expert in this

case cannot be accepted to be final and thus the cumulative effect of whole of the evidence do not lead to any conclusive proof for which the appellants can be held guilty and convicted. As such, it was prayed before this Court that the Judgment and Order of conviction and sentence against the appellants be set aside.

On the other hand, learned advocate appearing for the State submitted that the marriage between the deceased and the appellant Biswajit Mondal was solemnized in November, 2012 and the untimely death of the deceased was on June, 2017. It was emphasized that under unnatural circumstances, within seven years of marriage, the deceased had to end her life which un-erringly would point to the inmates of the matrimonial home, who is to answer the reason behind the death of the victim/deceased. On behalf of the State, it was further submitted that there has been a consistent version of all the prosecution witnesses and the version was that there was a quarrel between the husband and mother-in-law on one side and the deceased and things got worse when the sister-in-law and her husband used to visit the matrimonial home. Additionally, it was submitted that it was not only the relations who had a consistent version of quarrel but the neighbours also reported regarding the quarrel which took place in the matrimonial home of the victim/diseased. It was therefore submitted that the consistency in the version of the prosecution witnesses would go to show that the deceased was compelled to end her life under unnatural circumstances and as such, all the appellants are responsible for the commission of the offense. Consequently, the Judgment and Order of

conviction and sentence do not call for any interference by this Court and the same should be affirmed.

I have considered the submissions of the learned advocate appearing on behalf of the appellants as also that of the State and analyzed the evidence which has been relied upon by the prosecution. An assessment of the evidence reflects that although the written complaint was generalized in nature implicating all the accused persons but in Court, there was a different version of each of the witnesses. The evidence goes to show that the appellant being Srabani Sardar (sister-in-law) and his husband Anath Sardar, were visitors at the matrimonial house of the deceased, and when they used to come, the prosecution witnesses deposed that there was quarrel. However, there is inconsistency in such versions while PW1 and PW8 deposed that the sister-in-law and her husband were frequent visitors but P.W.2 and P.W.3 deposed that the sister-in-law and her husband used to come, there is no reflection that they were frequent or occasional visitors. However, P.W.4 who is one of the vital witness of the case and a neighbour namely, Subrata Mondal, did not allege anything regarding the sister-in-law and the brother-in-law but there was a statement in his narration that the frequent quarrel were between Amrita on one hand and Biswajit and his mother on the other hand.

Now, coming back to the other appeal, where the appellants are the mother-in-law and the husband are concerned, I find that there was an allegation that quarrel used to take place between the deceased on the one

hand and the husband and the mother-in-law on the other hand. So far as the issue relating to abatement is concerned, in this case I find that the husband used to accuse the deceased of some illicit relationship which is reflected in the evidence of P.W.4, Subrata Mondal. He deposed that on the night preceding the death of the victim, while he was strolling on the pathway, the husband Biswajit told him that his wife Amrita used to chat with a man on WhatsApp. In this case, it is reiterated that from the inception there was no allegation of demand of dowry. However, the only point which has been canvassed is that there was quarrel. Having regard to the material which the prosecution has relied upon and the close proximity of time when the husband Biswajit Mondal expressed his frustration to P.W.4 regarding his wife chatting with a man and within few hours of the same, the wife was seen in a manner which reflects that she consumed poison as froth was coming out from her mouth and she had to be shifted to a hospital, it was incumbent that the explanation of such unnatural circumstances should have come from the side of the accused. In the absence of the same not being there, the natural course of events lead to the factum of the issue of abatement to commit suicide being directly related to the husband himself which implicates the appellant Biswajit Mondal and creates a different locus of this accused from rest of the accused persons. Needless to state that there is evidence which reflects that on the previous day quarrel took place in the house of the accused persons with the deceased Amrita on the one side and the husband and the mother-in-law on the other side.

The evidence against each of the accused persons as such is distinguishable in the present case for holding them responsible. So far as Srabani Sardar and Anath Sardar the appellants in Criminal Appeal No. 17 of 2023 is concerned, I find that there being no subject matter of quarrel being divulged and there also being no demand for dowry in this case, I am of the opinion that issues which flared up in day-to-day household affairs cannot make any person responsible within the meaning of Section 498A of the Indian Penal Code and as such the Judgment and Order of conviction and sentence so passed by the Learned Additional Sessions Judge, Fast Track 1st Court, Howrah in Sessions Trial No. 314 of 2017 corresponding to Domjur P.S. Case No. 505 of 2017, calls for interference and the same is set aside

So far as the mother-in-law Lakshmi Mondal is concerned, no materials are appearing against her for abetment. However, she has been convicted both for the charges under Sections 498A and 306 of IPC. The charge under Section 306 of the Indian Penal Code against the appellant Lakshmi Mondal in Criminal Appeal No. 44 of 2023, calls for interference and the order of conviction and sentence against the appellant Lakshmi Mondal under Section 306/34 of the Indian Penal Code so passed by the Learned Additional Sessions Judge, Fast Track 1st Court, Howrah in Sessions Trial No. 314 of 2017 corresponding to Domjur P.S. Case No. 505 of 2017 is as such set aside. However, her conviction under Section 498A of the Indian Penal Code is not interfered with, although having considered that she has suffered detention for a period of about three years during the course of investigation, trial and

pendency of the appeal, I am of the view that the sentence imposed by the learned Trial Court should be reduced to the period for which she had already suffered detention.

So far as the appellant Biswajit Mondal is concerned, in the light of the observations which have been referred above, I am of the opinion that no interference is called for in respect of the judgment and order of conviction and sentence so passed by the learned Trial Court in connection with Sessions Trial No. 314 of 2017 corresponding to Domjur P.S. Case No. 505 of 2017. As such, the appeal of Biswajit Mondal in Criminal Appeal (SB) No. 44 of 2023 is dismissed.

Accordingly, Criminal Appeal (SB) No. 17 of 2023 is **allowed** and Criminal Appeal (SB) No. 44 of 2023 is **partly allowed**.

The appellants who have been acquitted, automatically they are discharged from their bail bonds, if they are on bail.

Pending connected application(s), if any, are also disposed of.

Department is directed to send back the TCR immediately. A copy of the judgment be forwarded to the Id. Trial Court immediately for compliance regarding the directions given above.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)