

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

PRESENT:

The Hon'ble Justice Rajarshi Bharadwaj
And
The Hon'ble Justice Apurba Sinha Ray

GA 1 of 1998
The State of West Bengal
-Vs-
Smt. Bidyut Das

For the Respondent: Mr. Debasish Roy, Ld. P.P.
Mr. Partha Pratim Das

Heard on : 03.07.2025

Delivered on : 03.07.2025

Rajarshi Bharadwaj, J.:

1. The prosecution case, inter alia, is as follows:
2. One Aparna Das, daughter of Dr. Dwaraka Nath Chowdhury of 46/3A, Central Road, Jadavpur got married with Sibasish Das of 202/A, Netaji Subhas Chandra Bose Road, Calcutta-47, police station Jadavpur on 15th April, 1993.
3. Shortly after the said marriage, Aparna saw one day her mother-in-law (accused-opposite party) in a very compromising position with one Shyamapada Deb Roy (accused, since deceased during the pendency of the trial) in their bed room. Since then she was subjected to torture both physically and mentally by the accused-opposite party i.e. by her mother-in-law, Smt. Bidyut Das and Shyamapada Deb Roy.
4. Prosecution's further allegations are at that point of time Aparna's father-in-law was completely bed-ridden due to illness. On one night when her

husband Sibasish Das was attending his ailing father, accused-opposite party suddenly entered inside the room of Aparna and tried to throttle her but she somehow escaped. The accused/opposite party and the said Shyamapada Deb Roy since deceased used to threat Aparna not to disclose the said fact what she saw in the bed-room of the accused-opposite party to anybody, even to her husband. Thereafter, further attempts were made for torturing by the accused-opposite party and Shyamapada Deb Roy by throttling as well by fire. They caused injuries to Aparna (de facto complainant) on different parts of her body including on breast and lower abdomen with the help of burning cigarette. That on 3rd June and 4th June, 1993, the accused-opposite party and Shyamapada Deb Roy both conjointly attempted to kill her by tying her saree with the ring of Gas Cylinder and by setting fire. She was narrowly saved from death.

5. Aparna (de facto complainant) reported the said factum of physical and mental torture to her parents (P.W.2 and P.W.3). She was medically treated by doctors. She sustained as many as eleven injuries on different parts of her body due to said physical torture inflicted on her body by the accused-opposite party and Shyamapada Deb Roy, since deceased. Thereafter, ultimately on 10th June, 1993, she was removed to the Hospital because of her chest pain. While she was in the Hospital on 16.06.1993, she lodged a written complaint through her father (P.W.2) to Jadavpur Police Station for necessary steps thereof.

6. That on the basis of the said written complaint lodged by Aparna, Jadavpur P.S. Case No.377 dated 17.06.1993 under Sections 498A/307/34 of the Indian Penal Code was initiated against the accused-opposite party and another and the investigation of the said case was terminated with a charge-sheet dated 26.09.1993 against the accused-opposite party and another for offences punishable under Sections 498A/307/34 of the Indian Penal Code.

7. That on the aforesaid allegations as stated hereinabove the accused-opposite party was placed on trial before the learned Additional Sessions Judge,

2nd Court, Alipore, District - South 24-Parganas to answer the charges under Sections 498A/307 of the Indian Penal Code as levelled against her.

8. That in order to substantiate the offence as charged against the accused-opposite party, prosecution examined in all eleven witnesses and tendered documents and materials as exhibits in support of the prosecution case. Now out of the eleven prosecution witnesses P.W.1 is the victim (de facto complainant) P.W.2, P.W.3 are the parents of the victim, P.W.4, P.W.5 are the local witnesses of the accused-opposite party's place of residence, P.W.6, P.W.7, P.W.8 and P.W.10 are medical witnesses and P.W.9 and P.W.11 are the police witnesses out of which P.W.11 is the Investigating Officer of the case. The defence examined none.

9. The defence case which can be well ascertained from the trend of cross-examination of prosecution witnesses, the suggestions given to the witnesses during the cross-examination by the defence and also the answers as given by the accused-opposite party when examined by the learned Trial Judge under Section 313 of the Code of Criminal Procedure was of innocence and false implication.

10. Factum of physical and mental torture upon Aparna (P.W.1) by the accused-opposite party and Shyamapada was duly reported to the parents (P.W.2 and P.W.3) by Aparna on the day of "Jamai Sasthi" inasmuch as the evidence of torture upon P.W.1 has been fully and/or fairly supported by the legal evidence of local witnesses P.W.4 and P.W.5 out of whom P.W.4 is landlord of accused-opposite party.

11. That the substantive evidence of the victim wife (P.W.1) has received full supported in material part by the circumstantial evidence adduced by prosecution by P.W.4 and P.W.5 inasmuch as the same has been corroborated by the medical evidence.

12. The Trial Court after compliance of necessary formalities, recorded an order of acquittal which is in challenge before this Hon'ble Court. In spite of

service, the accused/respondents are unrepresented and as such, we propose to deal with the appeal on its merits.

13. Dispensing with the service upon the respondents as in our view, it will not be prejudicial in the interest of the respondents for the order we propose to pass.

14. We have heard the learned Public Prosecutor who argues in favour of the appeal and points out some infirmities in the order of the learned Trial Judge.

15. We are, however, not convinced with the arguments advanced on behalf of the State by the learned Public Prosecutor in view of the fact that the order of acquittal has been recorded by the learned Trial Judge upon consideration of all the materials placed before him.

16. In view of the proposition laid down by the Hon'ble Apex Court from time immemorial and recently in the case of Constable 907 Surendra Singh & Anr. Vs. State of Uttarakhand , reported in 2025 SCC Online, SC 176, we do not think there is any scope for interference by this Hon'ble Court as the impugned judgment and order seems to be justified and reasonable.

17. Accordingly, the appeal fails and is dismissed.

18. Copy of this judgment along with the trial court records, if any, shall be sent back to the trial court at once for necessary compliance.

19. Urgent Photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all requisite legal formalities.

[Rajarshi Bharadwaj, J.]

I agree

[Apurba Sinha Ray, J]