

Form No. J(1)

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

Present :

**The Hon'ble Justice Rajasekhar Mantha
And
The Hon'ble Justice Ajay Kumar Gupta**

**CRA 41 of 2017
CRAN 2 of 2024**

**Rupesh Paramanik
- Vs. -
The State of West Bengal**

For the Appellant: Mr. L. Vishal Kumar,
 Mr. S. Chatterjee,
 Mr. Prasun Mukherjee

For the State: Mr. Joydeep Roy,
 Ms. Eshita Dutta,
 Ms. Paramita Sahu

Heard on: September 11, 2025.

Judgment on: September 11, 2025.

Rajasekhar Mantha, J.:

1. The instant appeal is directed against the judgment and order of conviction dated 08.12.2016 passed by the learned Additional District & Sessions Judge, Third Court at Purulia in Sessions Trial No. 7/2012 arising out of the Sessions Case No. 135 of 2011. The appellant was convicted and sentenced to suffer life imprisonment for murder of his wife under Section 302 of the Indian Penal Code. The other two accused, namely,

the father and mother of the appellant have been acquitted by the trial court.

THE PROSECUTION CASE:

2. The prosecution case in brief is that on 3rd June, 2010 at about 10.30 p.m., the victim Sitala Devi, wife of the appellant, is stated to have been murdered. The father of the victim, PW 1, Gujra Paramanik, was informed on telephone by the locals. He arrived at the said village called "Magha" under P.S.-Jhalda, District-Purulia. He prepared and caused to write a complaint scribed by the PW 2, Rupen Paramanik, against the appellant and his parents. In the complaint, he alleged that he had given about Rs.60-70000/- cash and articles at the time of marriage of his daughter eight years prior to the incident.

3. He further stated in the complaint that there was continuous demand for more dowry from the accused persons and one Mahabir Paramanik. He made good the demand for dowry in cash from time to time and requested the appellant's family not to torture his daughter. He further mentioned in his complaint that he was informed by the villagers that his daughter was killed by a ghost.

4. Inquest of the body was conducted on the next day in the afternoon i.e. 4th June, 2010. The Inquest officer found injuries on the left chick of the victim and neck and throat running from left to right. A necklace made of glass beads was also found.

The body was sent for postmortem. The postmortem Dr. found three several injuries on the body of the victim.

5. The appellant and his parents were arrested. Charges were framed against all the three accused persons under Section 498A read with Section 34 and Section 302 read with Section 34 of the IPC.

EVIDENCE BEFORE THE TRIAL COURT:

6. **PW-1, Gujra Paramanik**, was the complainant. He reiterated a portion of the complaint in course of examination-in-chief. He stated that at the time of marriage of his daughter Sitala Devi, the victim, cash of Rs. 30,000/-, a bicycle, silver and other utensils were given and the marriage was trouble free for some initial days. He stated that thereafter the appellant, his parents and one Mahabir Paramanik demanded more money from him.

7. He was informed over telephone on the day of the incident that his daughter was died and he arrived at the village of the matrimonial house of the daughter at the same night. He stated that the complaint was prepared on his instructions and written by PW-2, Rupan Paramanik. In course of cross-examination, however, he stated that the family of the appellant and his own were in good terms and regularly visited each other on festive and other ceremonies. His daughter came to visit her parents on a regular basis. He also stated that he visited the other

family members of the appellant in their village. In cross-examination, however, he admitted that there was no demand of dowry from the accused persons during marriage. He gave gifts to the appellant on his own. He further confirmed that his daughter-told him and his wife that she was always happy in her husband's house. He further clarified that the appellant stated that he did not need any money when asked if he wanted further dowry.

8. The appellant is stated to have told the PW-1 that his daughter was mentally abnormal and used to get annoyed quite often. He admitted that he had lodged the complaint against the appellant, which was false, on the advice of local villagers. He further stated that he put his LTI on the complaint on the instructions of the police. He was not interrogated by the police at any point of time. He did not sign any seizure list.

9. **PW-2, Rupan Paramanik**, the scribe of the complaint. He deposed that he wrote the complaint. In cross-examination he admitted that the victim was living happily with her husband. He further admitted to Court that he wrote the complaint erroneously despite knowing the true facts.

10. **PW-3 was Sohan Paramanik**, the father-in-law of the cousin's sister of the victim. He stated that he had dinner with the victim at the victim's house on the night of occurrence and went to sleep at a distance of hundred meters. Yet he

reiterated that he was sleeping in the house of the appellant on the date of occurrence. He confirmed that there was a loud speaker blaring with music in view of a marriage function in the village. He confirmed that when he had dinner with the victim in her house in the night of the occurrence, he did not find any discord between them.

11. **PW-4 was Joynarayan Singh.** He was an inquest witness. He did not know how the victim died. He came to the village on the next day at 8.30 in the morning. He was declared hostile. He denied the entire prosecution case in cross-examination.

12. **PW-5 was Bijoy @ Ranju Singh.** He deposed that there were good relations between the appellant and his wife, the victim. He confirmed having told the police that he did not know anything about the circumstances under which the victim died. He was declared hostile. He denied the entire prosecution case in cross-examination thereafter.

13. **PW-6 was Sanjati Mura.** He was a family friend. He saw the dead body of the victim on the next day morning in the courtyard. He was not aware of the circumstances under which the victim died. He was declared hostile. He denied the entire prosecution case in cross-examination.

14. **PW-7 was Dr. Shyam Krishna Hansda** who examined the appellant. He was attached to the Jhalda BPHC as Medical

Officer. He found a vital struggle and scratch mark on the nail on the mid of upper arm on 4th June, 2010 of the appellant. The scratch mark on the nail was recent. No other injuries were found on the body of the victim. The skin under the nails of the victim was not examined to determine if the victim caused the scratch mark of the appellant.

15. **PW-8 was Nimai Paramanik.** He confirmed having given a statement under Section 164 of the Cr. P.C. before the Magistrate. He stated that the victim was living happily in her matrimonial house. He had gone to the house of the victim on many occasions and found that she was living happily. He deposed that he was compelled by the police to state certain things before the Magistrate. He also deposed that the victim had breathing problem even before marriage. He was not declared hostile by the prosecution.

16. **PW-9 was Dhanu Paramanik.** He was a relative of the victim. He heard about the death of the victim but did not know how she died. He was not present in the marriage of the victim with the appellant. He was declared hostile. He denied the entire case of the prosecution in course of cross-examination. He denied that the appellant was there in the house of the victim on the date and time of occurrence or that the villagers stating that ghost had killed the victim.

17. **PW-10 was the Post Mortem Doctor.** He has indicated in his report that there was decomposition in the body, two transverse abrasions 1^{1/2}" x 1/2" long over chick, four transverse abrasions 1/2" x 2" long over left side of neck, one nail bite over right side of neck and Trachea lumen was full of blood and congested. He opined that cause of death was due to asphyxia due to strangulation, antemortem and homicidal in nature. He further deposed that time of death was 35-30 hours prior to the post mortem examination.

18. **PW-11** was the Investigating Officer of the case, **Radhakanta Pati.**

19. In examination under Section 313 of the Code of Criminal Procedure, the appellant has stated that against question no.8 that he was in the marriage ceremony that night and therefore was not there at home. In answer to question no.14, has stated that the injuries sustained by him while entering his house.

DECISION OF THE TRIAL COURT:

20. The Trial Judge found the appellant guilty and acquitted his parents from the charges. The Trial Judge, however, drew up proceedings under Section 344 of the Code of Criminal Procedure against PW-1 and PW-2.

ANALYSIS OF THIS COURT:

21. This Court has carefully considered the entire evidence on record and has heard the arguments advanced by the learned Counsel appearing on behalf of the appellant and the State.

22. What is most crucial and missing from the prosecution case, is that the presence of the appellant in the house on the date and time of occurrence has not even remotely been established. None of the witnesses of the prosecution could say with certainty that the appellant was present in the house. On the contrary, PW-3, Sohan Paramanik has stated that he had gone for dinner in the victim's house and slept thereat on the date and time of the incident. If there was any participation of the appellant in strangulating the victim, PW-3 would certainly have heard of the same since he was sleeping in an adjacent room as there were only two rooms in the house of the appellant.

23. It further appears that PW-4, PW-5 and PW-6 have turned hostile and have refuted the prosecution case in its entirety. What is most vital is that PW-1 in his cross-examination has completely denied any role, action or participation of the appellant in the death of the victim. On the contrary, nearly all prosecution witnesses including the father of the victim have stated in no uncertain terms that the relations between the appellant and the victim i.e. his wife were happy and cordial. PW-1 has specifically confirmed that his daughter never complained of any unhappiness of her family in her marital house. He and PW-2 have specifically deposed that the complaint filed by them was false, baseless and incorrect.

24. In absence of any evidence of the appellant, being in the house where the victim was found dead, the appellant could not have been found guilty of the offence under Section 302 of the Indian Penal Code for murder of his wife.

25. This Court notes that the prosecution has miserably failed to establish any of the charges against any of the accused and particularly the appellant. The prosecution has not been able to establish motive for the crime. The case being based on circumstantial evidence the vital links in such chain is found conspicuously missing.

26. The investigating agency and the prosecution have not established any nexus between the injuries found in the person of the victim and that in the appellant. The nail bite on the right side of the neck of the victim and scratch mark of nail on the mid of the upper arm of the appellant have not been matched with that of the victim. Thus in the present case, the medical evidence is immaterial as it has not been connected with the appellant.

27. Reference in this regard is placed, inter alia, paragraph 62 of a decision of this Court in the case of **Karuna Bhujel – Vs. – State of West Bengal** (Circuit Bench at Jalpaiguri) in C.R.A. 2 of 2020 delivered on 22nd August, 2024.

28. In view of the above, the impugned judgment of conviction and the order of sentencing of the appellant are hereby set aside.

29. The instant criminal appeal is allowed and disposed of.

30. In view of disposal of the appeal itself, the connected application being CRAN 2 of 2024 is also disposed of.

31. The appellant, namely, Rupesh Paramanik shall be set at liberty forthwith from the custody, if not wanted in any other case, upon execution of a bond to the satisfaction of the Learned Trial Court, which shall remain in force for a period of six months under Section 437A of the Code of Criminal Procedure corresponding to Section 481 of the BNSS, 2023.

32. Let the TCR along with a copy of this judgement be sent down at once to the learned trial court for necessary action.

33. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties as early as possible upon completion of all requisite formalities.

(Rajasekhar Mantha, J.)

I agree.

(Ajay Kumar Gupta, J.)