

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 29 of 1988
The State of West Bengal

-Vs-

***Sri Tapas Biswas @ Tapan Biswas @ Manick
Biswas & Anr.***

For the State : Mr. Debashis Roy, Ld. PP
Mr. Partha Pratim Das

Heard on : 14.07.2025

Delivered on : 14.07.2025

Rajarshi Bharadwaj, J.:

1. No one appears for the respondents.
2. That the prosecution case in brief is that Sarbani Biswas alias Munna was married to Tapan Biswas in January 1982 and that after her marriage she was ill-treated and tortured for more and more money by her husband, his brother Sankar and her all the in-laws of her in-law's house and the prosecution case further is that the said Sarbani consumed poison and she died on the night of 10.05.1985 at about 1:30 a.m. Two local boys informed to the father of Sarbani who lodged a first information report at Mahestala P.S. which started the said P.S. Case No.9 dated 12.05.1985 under Section 498A/34 and 306/34 of the Indian Penal Code.

3. That after investigation the police submitted charge-sheet against the accused opposite parties and 3 others under Sections 498A/34 of the Indian Penal Code.
4. That on being committed to the Court of Sessions the accused opposite parties and 3 others were tried on charges under Sections 306/34 and 498A/34 of the Indian Penal Code by the learned Additional Sessions Judge, 5th Court, Alipore.
5. That the opposite party no.1 is the husband of the said deceased and the opposite party no.2 is her husband's brother and the 3 others included her father-in-law, her mother-in-law and her sister-in-law(Nanad).
6. That at the trial, the prosecution examined in all 44 witnesses including those who heard from Sarbani about the ill-treatments marked out to her by her husband, Debar, Nanad, father-in-law and mother-in-law and the rest are doctors, police officers etc.
7. That P.W.1, P.W.15, P.W.16, P.W.22, P.W.31, P.W.35, P.W.42 and P.W.43 spoke about the ill-treatments marked out to Sarbani, P.W.14 doctor who held post-mortem examination of the said deceased proved that her death was due to intake to Carbolic Acid orally. Several letters written by Sarbani to her parents were duly proved and exhibited in the case.
8. That evidence of the said P.W.s and the said letters and other circumstances of the case fully proved the case against all the accused persons including the accused opposite parties but the learned Additional Sessions Judge was pleased to acquit the accused opposite parties gave the charges and he was pleased to convict the rest.
9. 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 of administrative notice, the accused/respondents are unrepresented and as such, we propose to deal with the appeal on its merits as no one responded even after issuance of such administrative notice.

10. 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.

11. 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.

12. 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.

13. 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.

14. Accordingly, the appeal fails and is dismissed, however, with regard to no order as to costs.

15. Copy of this judgment along with the trial court records, if any, be sent down to the trial Court immediately.

16. 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]