

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 05 of 2000
The State of West Bengal
Vs.
Arun Bhar

For the State : Mr. Debasish Roy, Ld. P.P.
: Mr. Parthapratim Das, Adv

Heard On : 03.07.2025

Judgment Delivered On : 03.07.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that accused Arun Bhar is the husband of the victim, Sikha Bhar who committed suicide on 26.04.1997 by pouring kerosene oil on her body and ultimately she died on 28.04.1997 at R.G. Kar Medicinal College & Hospital.

2. After the incident, police recorded the statement of the victim and on the basis of such statement, an FIR has been lodged being no. Jorabagan Police Station case no. 50 dated 27.04.1997 under sections 498A/306 of I.P.C. After investigation, charge-sheet was submitted under sections 498A/306 of I.P.C

and the case was committed to the Learned Sessions Judge, City Sessions Court, Calcutta for trial and disposal. The prosecution has examined 23 witnesses to prove its case.

3. The Learned Sessions Judge, City Sessions Court, Calcutta found that the statement made by the victim, which was treated as an FIR, cannot come within the purview of section 32 of Indian Evidence Act, 1872 as the statement suffers from infirmity. The doctor in whose presence the statement was recorded fails to satisfy the court that the victim was in fit state of mind and power to speak at the time of making such statement. There was no evidence of abetment, committed by the accused which can drive the victim to commit suicide. There must be some mens rea. Mere fact that the deceased was treated by the accused person with cruelty is not sufficient to prove that the accused abetted the victim to commit suicide. Even, the letter of complaint does not bear the seal of the police station. Moreover, some witnesses of the prosecution were declared hostile by the prosecution.

4. By judgment and order dated 16.08.1999, the accused person, namely, Arun Bhar was found not guilty under sections 498A/306 of I.P.C and he was acquitted from all the charges of the case.

5. Challenging the said judgment of acquittal, the State has preferred this appeal on 22.12.1999. In spite of service, the respondent remained unrepresented, and as such, the matter is taken up for disposal on its merits.

6. The Trial Court, after compliance with necessary formalities, recorded an order of acquittal which is under challenge before this Hon'ble Court. In spite of service, the respondent is unrepresented, and hence, the matter is taken up for disposal on merits.

7. In our view, it will not prejudice the respondent even if the service is dispensed with after taking into consideration all materials available on the record and also in view of the order that we propose to pass.

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

9. This court, however, is not convinced with the arguments advanced on behalf of the State since, according to us, the order of acquittal has been recorded by the Learned Trial Judge upon consideration of all the materials placed before him.

10. In view of the law 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.

9. Accordingly, the appeal fails and is, thus, dismissed. No order as to costs.

I Agree.

(RAJARSHI BHARADWAJ, J.)

(APURBA SINHA RAY, J.)