

**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 08 of 2003
The State of West Bengal
Vs.
Amitava Dutta & ors.**

For the State	: Mr. Debasish Roy, Ld. P.P. : Z.N. Khan, Adv : M. Mahata, Adv.
For Respondent	: Somnath Adhikary, Adv.
Heard On	: 04.07.2025
Judgment Delivered On	: 04.07.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that on 07.05.1989 at about 7.30 a.m. Amaresh Chandra Dutta filed a written complaint to Thakurpukur Police Station and after receipt of the same, Thakurpukur Police Station case no. 167 dated 07.05.1989 under section 325 of I.P.C was started. It was alleged that on 07.05.1989 in the night at about 2.30 a.m. at 136/1 Dakshin Para Road, P.S. Thakurpukur, some unknown miscreants threw acid in the bedroom of the de-facto complainant where his son (Amitava Dutta) and his daughter-in-law (Mousumi Dutta) were sleeping and both of them sustained burn injuries. After

a preliminary treatment by local doctor, they were taken to B.R. Singh Hospital, Kolkata.

2. After investigation, police collected evidence to the effect that victim, Mousumi Dutta was tortured by her husband (Amitava Dutta) and her in-laws regarding a payment of Rs. 500/- per month by the victim to her mother-in-law as per agreement at the time of marriage. Moreover, police recorded the statement of victim that her husband poured acid on the private parts of her body which caused severe acid burn injury and as a result of such the victim was bound to terminate her pregnancy. After investigation, charge-sheet was submitted under sections 325/326/307/498A/313/511 of I.P.C against Amitava Dutta, Amaresh Dutta, Smt. Monjira Dutta, Anilava Dutta and Smt. Sutapa Dutta @ Bhandari and the case was committed to the Learned Additional District & Sessions Judge, Alipore for trial and disposal. The prosecution has examined 25 witnesses to prove its case.

3. Learned Additional District & Sessions Judge, Alipore found that the victim and her husband were treated by a local doctor but the said doctor was not examined. Thereafter, they were taken to B.R. Singh Hospital and victim, Mousumi Dutta alone was taken to Howrah Orthopedic Hospital, where she stated that the acid was thrown by some unknown miscreants. PW14 S.I. of Police deposed that the victim never told him that her husband forced her to terminate the pregnancy. The victim at first opportunity did not state before the Investigating Officer that her husband poured acid on her. She stated on her third examination before I.O. The Investigating Officer did not examine the neighbours regarding the acid attack. Moreover, the father-in-law of the victim lodged the complaint and both the husband and wife were taken to hospital. The relation between husband and wife was cordial. In this instant case no F.I.R was lodged by the victim. There was every chance of concoction and the ingredients of section 498A of I.P.C were missing in the case. Thus, prosecution had failed to prove that Amitava Dutta threw acid on her wife.

4. By the judgment and order dated 16.04.2003, the accused persons, namely, Amitava Dutta, Amaresh Dutta, Smt. Monjira Dutta, Anilava Dutta and Smt. Sutapa Dutta @ Bhandari were found not guilty under sections 498A/34/326/307/313 of I.P.C and they were acquitted from all the charges of the case.

5. Challenging the said judgment of acquittal, the State has preferred this appeal on 08.08.2003. In spite of service, the respondents 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 respondents are unrepresented, and hence, the matter is taken up for disposal on merits.

7. In our view, it will not prejudice the respondents 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.)