

C.R.A. 709 of 2006
With
I.A. No. CRAN 2 of 2007 (Old No. CRAN 990 of 2007)
Faruque Sarder
-Vs.-
The State of West Bengal

Mr. Ramashish Mukherjee	
Ms. Debanjana Sen.....	<i>Amicus Curiae</i>
	For the Appellant
Mr. Suman De	
Ms. Sujata Das	For the State

Heard the submissions of both the Learned Advocates.

This criminal appeal was filed against the judgment and order of conviction and sentence passed on September 27, 2006 by the learned Sessions Judge, Diamond Harbour, South 24 Parganas in connection with Sessions Trial No.11(2) 06 arising out of Sessions Case No.5(1) 06 convicting the appellant under Sections 498A/304B of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for a period of seven years for the offence under Section 304B of the Indian Penal Code. In this case, no separate sentence for the offence under Section 498A of the I.P.C. was imposed against the accused.

The appeal was heard by the Coordinate Bench on February 12, 2007, where no order was passed to suspend the sentence as was imposed. Since thereafter, the matter remains pending. Lastly, when the matter appeared long thereafter, the other Coordinate Bench on May 1, 2024 appointed Mr. Ramashis Mukherjee, learned advocate as Amicus Curiae to conduct the case on behalf of the appellant.

Now, at this stage, when the matter appeared before this Court, a direction was given to the State respondent to file a comprehensive report regarding the period of sentence, which has been suffered by the convict and/or whether he has been released then on which date.

In compliance therewith, learned advocate appearing on behalf of the State respondent Mr. Suman Dey submits that the report of the Officer-in-Charge, Mathurapur Police Station, Sundarban Police District dated 1st July, 2025, which revealed that the present appellant/convict was sentenced to suffer rigorous imprisonment for seven years in connection with S.C. No.5(1)/06, S.T. No.11(1)/06, GR No.1235/05, U/S – 304B IPC, 235(2) Cr.P.C. by the learned Court of the Additional District & Sessions Judge, Diamond Harour, South 24 Parganas on 27.09.2006. He was arrested on 18th September, 2005 and was initially kept at Diamond Harbour Sub-Correctional Home for a period of 45 days and subsequently transferred to Alipore Central Correctional Home. He was further shifted to Midnapore Central Correctional Home from where he was released on 25th November, 2011 after serving his entire sentence. It is further mentioned that his entire sentence covered the benefit of undertrial period set-off and remission of 293 days.

The I.O. submitted the report on the basis of the report of Superintendent, Midnapore Central Correctional Home. Let the report be kept with the record.

The prosecution case was launched on the basis of the complaint lodged by the father of the victim against the appellant alleging that his daughter was given marriage with the appellant about 3

years ago and at the time of the marriage as per the demand of the appellant's family he gave 24.000/- in cash along with gold ornaments and other wedding gifts to the daughter and the son-in-law and they were blessed with male child . He had to fulfill further demand of the son in law /the appellant by giving more money but since he was unable to fulfill the further demand the victim was subjected to physical and mental torture. It was further alleged that on 14.9.2005 at around 8 a.m he got the news from a resident of the locality of sarasberia village that last night his daughter had died from fire burn at her father –in law's house .They immediately went to see the body and came to learn that she was physically assaulted last evening by both husband and his parents as a result she committed suicide at 11p.m by setting herself on fire by pouring kerosine oil.

On the basis of that complaint the M/PUR P.S case no .74 dated 14.9.05 started and after completion of the investigation the chargesheet was submitted under section 498A/304B IPC against the accused /husband. The prosecution adduced 14 witnesses to prove the charges beyond the shadow of all reasonable doubts. In course of evidence and from the evidence of the autopsy surgeon for the first time it was revealed that a foetus in the uterus of approximately 8 weeks was found. The learned Session Judge raised certain suspicious circumstances regarding the death of the victim which were very serious in nature and even after the incriminating materials were placed before the appellant he failed to give any such circumstances excepting a mere denial. So far the regular torture upon the victim other than the parents being the

defacto complainant and P.W 8, P.W.9, 10 &11 supported the case of prosecution. The Learned session judge further observed that as per post mortem report the stomach containing 50 grms of brownish green pasty fluid was found and therefore possibility of poisoning before setting her ablaze could not be ruled out. The incident took place at the mid night but there were no family members and or neighbours to rescue her even though the sketch map shows the house was surrounded by other houses. The victim suffered 100/% burn and would be mother carrying a foetus will never take such a drastic step to end her life therefore I do endorse the observation of the learned session court in this regard. The interesting fact which can be seen from the examination of the appellant when the incriminating materials were put before him about the marriage and demand of dowry, his reply was that “she used to stay in my house but no article were given.” So he even didn’t say that as she was his wife .Furthermore he only said ‘NO’ when it was placed before him that a foetus of 8 weeks were found during autopsy which further established that possibly the relation between the husband and wife was not good. No other contradictory case was established by the defence to create any such circumstances which would create a cloud in the mind of the court to favour the accused with Benefit of Doubts.

Therefore considering all the facts and circumstances this court do not find any reason to have a different view than the Learned Session Judge and hence I find no merit in this Appeal.

In view of the above, the instant Criminal Appeal stands dismissed.

In this case the appellant has served the full sentence including the benefit of undertrial period set off and remission of 293 days and was released long back as the report reveals.

Let a copy of this order be sent to the learned Trial Court for necessary information and compliance.

(Chaitali Chatterjee (Das), J.)