

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

C.R.A. No. 369 of 2019

Lalchand Roy

vs.

The State of West Bengal

with

IA No.: CRAN 1 of 2019

(Old CRAN 3797 of 2019)

For the Appellant : Mr. Soumik Ganguly, Advocate
Ms. Indrani Roy, Advocate

For the State : Mr. Debasish Roy, Ld. P.P.,
Mr. Sanjoy Banerjee, Advocate
Ms. Nandini Chatterjee, Advocate

Heard & Judgment on : January 28, 2026

MD. SHABBAR RASHIDI, J.:-

1. The appeal is directed against judgment and order of conviction dated April 24, 2019 and further sentence dated May 31, 2019 passed by the learned Sessions Judge, Bankura in Sessions Case No. 01 (04) 17.

2. By the impugned judgment, the appellant was convicted of the offence punishable under Section 498A/302 of the IPC. By the impugned order of sentence, the appellant was sentenced to life imprisonment for the offence punishable under Section 302 of the IPC. He was further convicted for simple imprisonment for 2 years for the offence punishable under Section 498A of the IPC with a fine of Rs.5,000/-. In default of payment of fine, to suffer simple imprisonment for a further period of three months. Both of the sentences were directed to run concurrently.
3. At the time of hearing, learned advocate for the appellant submits that there are material contradictions in the testimony of the witnesses examined on behalf of the prosecution. It is also submitted that no independent witness was examined on behalf of the prosecution. Some independent witnesses examined for the prosecution turned hostile.
4. Learned advocate appearing for the appellant also submitted that the prosecution has not been able to substantiate the charges levelled against the appellant. Learned Trial Court committed an error by convicting the appellant on the basis of such evidence on record.
5. Learned Advocate appearing for the State submitted that the prosecution has been able to prove all the charges levelled against the appellant on the basis of cogent and convincing evidences.

6. It is further submitted by learned advocate for the State that the independent witnesses who turned hostile at the time of their deposition have supported the incident which follows necessary incriminating inference.
7. Relying upon **2025 INSC 957 (Gurdeep Singh vs. The State of Punjab)**, learned advocate for the State submitted that hostility of witnesses does not completely efface their testimonies from the evidence on record. It is further contention of the learned advocate relying upon the said judgment that again the prosecution witnesses turned hostile. The Court can rely on the consistent part of the testimony of such witnesses.
8. The father of the defacto complainant lodged a written complaint with Saltora Police Station on July 23, 2016. It was alleged that his daughter was married to the appellant. Since after her marriage, his daughter residing at her matrimonial house was subjected to physical and mental torture by her husband and mother-in-law. The written complaint also stated that due to brutal torture by the appellant and his mother, the defacto complainant brought his daughter to Bankura Medical College and Hospital in a burnt condition at about 11 O' clock.
9. On the basis of such written complaint, Saltora Police Station Case No. 37 of 2016 dated July 23, 2016 under Section 498A/34 of the IPC was started against two FIR named accused persons including the present appellant. The appellant took up investigation and on

completion of the investigation submitted charge sheet under Sections 498A/302/34 of the IPC.

10. On the basis of the materials in the case diary, charges under Section 498A/302/34 of the IPC were framed against the appellant as well as another accused on May 5, 2017.
11. In order to substantiate the charges, the prosecution examined 18 witnesses in all. In addition, prosecution also relied upon documentary as well as material evidences.
12. The mother of the victim was examined as P.W. 1. She has stated that the victim is her daughter who was dead. She was burnt by her husband and mother-in-law at her matrimonial house. P.W. 1 further stated that the incident took place in the month of last Shrabon (from 28th June, 2017). Her daughter was married to the appellant whom she identified in Court. Her daughter was alive for 5 months from her marriage. She also stated that her daughter, after such marriage, went to her matrimonial house and started residing with the appellant and mother-in-law. During such stay, her husband and mother-in-law used to inflict torture upon the daughter of P.W. 1. P.W. 1 stated that she was informed about the torture meted upon the victim by the victim herself. Her daughter came to her house 15 days prior to the incident and narrated about the torture inflicted upon her by the accused persons. However, P.W. 1 and other in-laws persuaded the victim to return to her matrimonial house. P.W. 1 further stated that upon hearing

about the incident of burning of the victim, she went to the hospital to see her daughter. At that time, the victim told her that she was assaulted by the accused persons in the night and was not provided food. In the morning, she was set on fire by the appellant and fled away. P.W. 1 also identified the mother-in-law of the victim.

13. A staff nurse of Bankura State Medical College and Hospital deposed as P.W. 2. She stated that on July 23, 2016 and July 24, 2016, she was on duty in the female surgical Down Ward. The Police Officer recorded the statement of the victim in her presence as well as in presence of Dr. Paran Tudu. The victim signed on such statement in her presence. Thereafter, P.W. 2 and the doctor also signed on the statement. She proved her signature on the dying declaration and it was admitted in evidence. P.W. 2 further stated that at the relevant time, the patient was in a position to talk and give statement as well as in a position to sign her name also.
14. The scribe of the written complaint deposed as P.W. 3. He scribed a written complaint at the instructions of the defacto complainant which was in respect of the death of his daughter. The defacto complainant put his left thumb impression on such written complaint in his presence. P.W. 3 proved the written complaint.
15. The defacto complainant himself deposed as P.W. 4. He stated that the victim was his daughter. She was married to the appellant on

24th of Falgun, one and half years ago. After marriage, she went to her matrimonial house. P.W. 4 further stated that occasionally there used to be quarrel between his daughter and her husband and mother-in-law. The appellant used to assault his daughter. Such incidents were informed to P.W. 4 by her daughter. On the date of incident, while he was working in the field, P.W. 4 received information that the accused persons had set his daughter on fire. It was in the month of Shrabon, a year ago. Upon receiving such information, P.W. 4 went to the police station. P.W. 3 wrote a written complaint as per his directions and on which he put his left thumb impression. From the police station, P.W. 4 went to Bankura Medical College and Hospital to see his daughter. At that time, his daughter told P.W. 4 that both her husband and mother-in-law tied her hands and thereafter set her on fire by pouring kerosene oil. He also stated that he was further reported that before setting on fire, the victim had an altercation with the accused persons. P.W. 4 identified the appellant and the other accused in Court.

16. The grand-father of the victim deposed as P.W. 5. He has supported the statement made by P.W. 4. He also stated that the victim was his grand-daughter and was married to the appellant. After marriage, she went and resided at her matrimonial house. She often had quarrels with her husband and in-laws. P.W. 5 also stated that the victim used to be tortured by the appellant and his

mother at her matrimonial house. P.W. 5 also stated that he often used to persuade his grand-daughter to return to her matrimonial house. P.W. 5 further stated that in the last Shrabon, both the accused persons assaulted the victim, they tied her hands and poured kerosene oil on her body and set her on fire. At the relevant time, P.W. 5 was working in the fields and received the information about the incident that her grand-daughter was set on fire. He went to the hospital and talked to the local people from the matrimonial village of the victim who informed him of the incident. He also stated that the incident took place within six months of her marriage. P.W. 5 identified the accused persons in Court.

17. A villager deposed as P.W. 6. He stated that he knew the victim who was married. In the month of Ashar, he met the victim at her father's house. Upon his enquiry, the victim informed her that she was subjected to torture at her matrimonial house. She used to be given food once in a day. After one month of meeting of P.W. 6, the victim died. P.W. 6 also stated that the victim was set on fire by the husband and mother-in-law.
18. A police constable was examined as P.W. 7. He accompanied the police officer to Bankura Medical College and Hospital who conducted inquest over the dead body of the victim. P.W. 7 carried the dead body under a challan for post mortem. He proved the dead body challan.

19. An Assistant Professor of the Department of Surgery of Bankura State Medical College and Hospital was examined as P.W. 8. He stated that on July 23, 2016, the victim was admitted in the hospital with burnt injuries in the Burn Ward of the hospital under Dr. Rathin Sarkar himself and Dr. Niloy Mondal. P.W. 8 proved the bed head ticket in respect of the treatment of the victim with the treatment sheets. He further stated that treatment papers showed that the patient was brought by one Kajol Ghosh and the history showed that the patient was burnt by the husband and mother-in-law at her matrimonial house at 9-00 a.m. on July 23, 2016. P.W. 8 also stated that police officer had recorded the statement of the victim in his presence and after obtaining a certificate of her mental condition from him, P.W. 8 proved his writing on the dying declaration. He also stated that the victim also signed on such statement.
20. The Deputy Magistrate was examined as P.W. 9. He stated that on August 2, 2016, he held inquest over the dead body of the victim in connection with U.D. Case No. 461 of 2016 dated August 2, 2016. He proved the inquest report prepared in his pen and signature.
21. The uncle of the victim deposed as P.W.10. He stated that the victim was his niece and was married to the appellant. He identified the appellant and his mother in Court. P.W.10 also stated that the victim was married to the appellant on 24th Falgun about one year ago and about 4/5 months prior to her death.

After such marriage, the victim went to her matrimonial house but from the very beginning, there were problems and every time she used to come to her father's house being tortured by her husband and mother-in-law. P.W.10 also stated that whenever he used to meet to the victim, she used to narrate her problems at her matrimonial house. On 6th Shrabān, P.W.10 came to know that the victim was set on fire after a quarrel. Hearing this, he went to Bankura Medical College. P.W.10 also stated that when he met the victim in the hospital, she told him that she was assaulted by her husband and mother-in-law, not given food and on the following morning they burnt her. The victim died on 17th Shrabān at Bankura Hospital. P.W.10 proved his signature on the inquest report.

22. A co-villager of the appellant deposed as P.W.11. He has stated that the wife of the appellant died due to burn injuries. He, however, could not say as to how the appellant and his mother used to treat the victim. This witness was declared as hostile by the prosecution and in his cross-examination by the prosecution, he denied having made any statement before the police.
23. A Sub-Inspector of Police deposed as P.W.12. He stated that on August 2, 2016, he conducted inquest over the dead body of the victim at the Bankura State Medical College and Hospital in connection with UD Case No.461/16. He proved the inquest report

- prepared by him. P.W.12 also sent the dead body for post-mortem examination under a challan which he proved.
24. Another co-villager of the appellant deposed as P.W.13. She identified the appellant and his mother in Court. She stated that the appellant was married to the victim. She heard that the victim died due to burn injuries. After hearing the news, she went to the place of occurrence and found the victim in burnt condition. She did not find the appellant or his mother in the house. This witness was also declared hostile by the prosecution and she denied having made any statement before the police.
25. Another co-villager of the appellant deposed as P.W.14. He also identified the appellant and his mother in Court. He further stated that the appellant was married to the victim and the victim died of burn injuries. P.W.14 had visiting terms at the house of the appellant. P.W.14 was also declared hostile by the prosecution and in his cross-examination on behalf of the prosecution he denied having made any statement before the police.
26. Yet another co-villager of the appellant was examined as P.W.15. She also identified the appellant and his mother in Court. She also stated that she knew the victim who was the wife of the appellant. The victim died of burn injuries. P.W.15 also stated that she went to the place of occurrence on the date of incident upon hearing the cry of help of the victim, however, she did not douse the flame. She stated that she was interrogated by the police and she had

- seen the victim burning. P.W.15 was also declared hostile by the prosecution.
27. Another co-villager of the appellant deposed as P.W.16. She identified the appellant and his mother in Court. She also claimed that she knew the victim and the victim died due to burn injuries. She also stated that she was bringing water when she heard the cry of help of the victim. On reaching the place of occurrence, she saw the victim burning. However, out of fear, she left the place. P.W.16 also declared hostile by the prosecution and in her cross-examination by the prosecution she denied having made any statement before the police.
28. A Medical Officer of Bankura State Medical College and Hospital deposed as P.W.17. He stated that on August 2, 2016, he conducted post-mortem on the dead body of the victim in connection with Bankura Police Station UD Case No.461/16. He stated that upon the post-mortem examination, he found infected ulcers following burn injuries present over the entire body all around sparing both the palms, both the soles, both the axillae and pudendal area. The injuries presented with pus and slough at places with evidences of healing by granulation tissues. He noted the injuries shown signs of vital reactions. P.W.17 also stated that upon such examination, he opined that the death was due to the effect of ante-mortem burn injuries. He proved the post-mortem

report prepared in his pen and signature which was marked as Exhibit-9.

29. The Investigating Officer of the case deposed as P.W.18. He stated that on July 23, 2016, he received a written complaint from the de facto complainant and started Saltora P.S. Case No.37/16. He proved his endorsement on the receipt of the written complaint as well as on the formal FIR. He also described various steps taken by him in course of investigation. He prepared rough sketch map with the place of occurrence with index which he proved. He also examined witnesses and recorded their statements under Section 161 of the Code of Criminal Procedure. On completion of investigation, he submitted charge sheet under Sections 498A/302/34 of the Indian Penal Code.
30. Upon completion of the evidence of the prosecution, the appellant was examined under Section 313 of the Code of Criminal Procedure. In such examination, the appellant took a plea of alibi and he stated that, I was in a sweet meat shop at Jamuria. He, however, pleaded innocence in the alleged incident.
31. In order to prove his plea of alibi, the appellant examined one witness as a defence witness marked as D.W.1. In his examination, D.W.1 stated that he had sweet meat shop at Jamuria. The appellant was an employee under him in the said sweet meat shop. He further stated that on July 23, 2016, he came to know that the appellant received a phone call from his

native place to the effect that his wife was being burnt and after getting the information, D.W.1 went to the workshop where the appellant was working. D.W.1 further stated that the co-workers of the appellant had stated that if the appellant dared to visit his native place he will be manhandled. On the following day, the appellant fled away from Jamuria.

32. From the materials on record, it transpires that as per case made out by the prosecution, the victim was married to the appellant 5/6 months prior to her death. After such marriage, she started residing at her matrimonial house. She used to be tortured by the appellant and his mother. Ultimately on the date of incident, the victim had an altercation with the accused persons, including the appellant and thereafter she was set on fire by the appellant. The victim was taken to the hospital in a burnt condition where she was under treatment and ultimately after few days, she expired.
33. The evidence laid at the trial on behalf of the prosecution goes to show that the victim was married to the appellant and that she used to live at her matrimonial house. She sustained burn injuries while residing at her matrimonial house and was taken to hospital where she ultimately succumbed to her injuries. Inquests were conducted upon her dead body by a police officer as well as an executive magistrate, the reports of which are on record. Such materials establish that the victim died an unnatural death. Thereafter, the post-mortem was conducted on the dead body of

the victim. The post-mortem report (Exhibit-9) together with the evidence of doctor (P.W.17) establishes that the victim died of burn injuries. On the basis of such evidence, it is established that the victim died an unnatural death.

34. So far as the persons responsible for such injuries which ultimately resulted in the death of the victim, the evidence on record goes to show that the victim was married to the appellant. There are ample evidence that the victim was subjected to torture by the appellant and his mother. P.W.1, P.W.4, P.W.5 have stated that the victim used to narrate about the incidence of torture upon her at her matrimonial house whenever she used to come to her matrimonial house. The aforesaid witnesses being the appellant and relatives of the victim always persuaded the victim to return to her matrimonial house.
35. There are several witnesses examined on behalf of the prosecution who have stated that they saw the victim burning just after the alleged incident. Not only that, two of the witnesses have categorically stated that they came to the place of occurrence after hearing the screams of the victim, although, the said witnesses have been declared hostile by the prosecution. They saw the victim burning. They have also narrated in their evidence that the appellant and his mother were found absent from the house where the victim was lying. Over and above, the victim herself made a statement before the police in the Bankura Medical College and

Hospital when she was admitted there with burn injuries. In such a statement, the victim clearly stated that she was set on fire by the appellant. Such a statement was recorded by the police in presence of a doctor as well as a staff nurse who have also testified the veracities of such statement. Furthermore, P.W.8, the doctor in whose presence the victim recorded her statement has stated that such a statement was recorded by the police after obtaining a certificate from P.W.8 with regard to the physical and mental condition of the victim. The other witness to such a statement, that is, P.W.2, has categorically stated that, the patient was in a position to talk and give a statement and was in a position to sign her name also. Although, the defence has tried to dislodge the statement. It has not been able to make a dent upon the veracity of such dying declaration recorded by the victim.

36. Apart from the recorded dying declaration, the grandfather of the victim deposed in his testimony that the victim informed him that the appellant set her on fire.
37. There is no inconsistency in the dying declaration and that of the oral testimony of the grandfather. There are no materials on record to disbelieve the statements of the prosecution witnesses with regard to the dying declaration as recorded and tendered in evidence and marked as Exhibit-5.
38. Apart from the dying declaration being Exhibit-5, there is a recording in the bed head ticket that, the victim was set on fire by

the appellant. Although, from the evidences to suggest that the mother of the appellant was also involved, since the mother of the appellant was convicted only under Section 498A of the Indian Penal Code, 1860 and the State did not prefer any appeal against such portion of the judgment of conviction and order of sentence, we are not minded to entering into the arena at that stage.

39. **Gurdeep Singh** (supra) is of the view that the testimony of hostile witnesses cannot be disregarded in its entirety. Such portions of the testimonies of the hostile witness which stands corroborated can be taken on evidence.
40. In the facts and circumstances of the present case and the witnesses who turned hostile establish the fact that the victim was burning at that material point of time. The victim ultimately succumbed to the burn injuries. Therefore, the fact that, the victim was burning or appellant set on fire stands established by the testimonies of the hostile witnesses and the same is corroborated by the medical evidence on record.
41. Appellant could not establish his alibi. Moreover, there is nothing to disbelieve the dying declaration which implicates the appellant. Therefore, from the evidence and materials-on-record, it transpires that the evidence laid at the trial binds to the guilt of the appellant alone and to the exclusion of all others.
42. In such circumstances, we are not minded to interfere with the impugned judgment and order. The same is hereby affirmed.

43. Consequently, the appeal being **CRA 369 of 2019** along with connected application is **dismissed**.
44. Period of detention undergone by the appellant during enquiry, investigation and trial shall be set off against the substantive sentence imposed upon him in terms of Section 428 of the Code of Criminal Procedure.
45. Let a copy of the judgment along with the Trial Court records be sent down to the Trial Court at once.
46. Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Md. Shabbar Rashidi, J.)

47. I agree.

(Debangsu Basak, J.)

S.D./A.D.