

HIGH COURT OF TRIPURA
AGARTALA
Crl. A. 4/2021

Smt. Aditi Kar @ Mani,

wife of Sri Dipak Biswas, resident of Rajarbag, Ward No. 13,
Udaipur, P.S.R.K. Pur, Udaipur, District- Gomati, Tripura

----Appellant

Versus

1. The State of Tripura

represented by the Public Prosecutor, High Court of Tripura, Agartala

2. Sri Dipak Biswas,

son of Sri Dulal Biswas, resident of South Chandrapur, P.S. R.K. Pur,
District- Gomati, Tripura

3. Sri Dulal Biswas,

son of late Ramgour Biswas, resident of South Chandrapur, P.S. R.K. Pur,
District- Gomati, Tripura

4. Smt. Malati Biswas,

wife of Sri Dulal Biswas, resident of South Chandrapur, P.S. R.K. Pur,
District- Gomati, Tripura

----Respondent

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| For Appellant(s) | : | Mr. I. Chakraborty, Advocate |
| For Respondent(s) | : | Mr. BN Majumder, Sr. Advocate Mr. R. Saha, Advocate Mr. S. Debnath, Additional PP |
| Date of hearing & delivery of Judgment & Order | : | 28.04.2022 |
| Whether fit for reporting | : | Yes / No |

HON'BLE MR. JUSTICE ARINDAM LODH
JUDGMENT(ORAL)

Heard Mr. I. Chakraborty, learned counsel appearing for the appellant as well as Mr. BN Majumder, learned senior counsel assisted by Mr. R. Saha, learned counsel, appearing for the respondent 2. Also, heard Mr. S. Debnath, learned Additional PP appearing on behalf of the respondent no. 1.

2. This appeal arises out of the judgment and order of acquittal dated 03.02.2021 passed by learned Sessions Judge, Gomati Judicial District, Udaipur in connection with case No. S.T. 39 (GT/U) of 2016.
3. The prosecution case, as projected by the learned Sessions Judge, is as under:

“That, one Shri Milan Kar, S/o late Brajendra Kar of Rajarbag, Udaipur under R.K. Pur Police Station lodged a written ejahar with the Officer-in-charge of R.K. Pur Women Police Station on 03.02.2016 to the effect that his daughter Smt. Aditi kar was given in marriage with accused Dipak Biswas of South Chandrpur, Udaipur on 23.07.2014 as per Hindu rites and customs. In the marriage he incurred Rs. 15 lac including the cash demand of Rs. 5 lac of the accused persons, gold ornaments weighing 12.5 vharis and other articles. After marriage his daughter was happy for 5/6 months in her matrimonial home. Thereafter, her husband Dipak Biswas being instigated by the other accused persons used to torture Aditi both mentally and physically on the demand of bringing a private care from her paternal house. When Aditi raised protest against the said demand of the accused persons, all the accused persons tortured her. On this issue on the initiative of the informant there was a meeting in the house of the accused persons where the accused persons assured that in future they will not repeat such kind of activities to the daughter of the informant. The ejahar further alleges that by the amount of Rs. 5 lak which was given by the informant in the marriage, the accused persons purchased a plot of land at Indranagar, Agartala and he was one of the attesting witnesses in the deed of the

land but in spite of that the accused persons did not stop ill treating his daughter.

The further allegation in the ejahar is that on 29.01.2016 at about 8 a.m. in the morning when his daughter after taking bath was changing in her room, at that time Dulal Biswas, her father-in-law entered in her room and outraged her modesty by embracing her. On her outcry, the other accused persons appeared there and on their query she told them about the act of her father-in-law. Then all the accused persons tried to kill her by pressing a pillow on her mouth. Somehow the victim escaped from the clutches of the accused persons and informed her father through a messenger about the incident. Then at about 12 noon the informant rushed to the house of the accused persons and enquired about the incident with them whereupon they misbehaved with him. Then the informant returned home and informed the incident to others and in the evening he approached Udaipur women P/S and with the help of police rescued his daughter in injured condition from the house of the accused persons at about 7.30 p.m.. On the following day he took his daughter to District Hospital, Tepania where she was under treatment w.e.f. 30.01.2016 to 01.02.2016 as indoor patient. The engagement of the informant for the treatment of his daughter has been stated as the reason for delay in lodging the FIR".

4. The complaint lodged by the father of the victim, Sri Milan chandra Kar was treated as FIR. On the basis of the complaint, the investigating officer investigated the case, recorded the statement of the available witnesses including some neighbouring witnesses. The victim was medically examined during the investigation. Thereafter, the investigating officer

submitted charge-sheet against the respondents no. 2,3 and 4. At the commencement of trial, learned Sessions Judge framed charge against the respondent no.2, Sri Dipak Biswas, under Sections 498-A/307 IPC; against the respondent no.3, Sri Dulal Biswas, under Sections 498-A/354 IPC and; against respondent no. 4, Smt. Malati Biswas, under Section 498-A IPC.

5. The prosecution in order to establish the charges framed against the respondents no. 2,3 and 4 had examined as many as 9 witnesses and introduced some documents. To discard the evidences of the prosecution witnesses, the respondents no. 2,3 and 4 had introduced one witness, namely, Smt. Sova Rani Teli, WSI of police who deposed as DW-1. After closure of the evidence of prosecution witnesses, the respondents no.-2, 3 and 4 were examined under section 313 Cr.P.C. where they denied all the allegations as surfaced by the prosecution witnesses during their evidences. Thereafter, the learned trial court recorded the evidence of DW-1.

6. Having heard learned counsel and on consideration of the evidences on record, the learned trial court held that the prosecution had failed to establish the charges levelled against the respondents no.- 2, 3 and 4, and accordingly, acquitted them. Being aggrieved by and dis-satisfied with the said order of acquittal, the *de facto* complainant has preferred the instant appeal before this court.

7. Mr. I. Chakraborty, learned counsel appearing on behalf of the appellant has submitted that the findings arrived at by the learned trial court while acquitting the respondents no. 2,3 and 4 are perverse. This court has made a query to Mr. Chakraborty, learned counsel to identify the findings of the learned trial court, which according to him, are perverse. Mr. Chakraborty, learned counsel has drawn the attention of this court to para 28 of the judgment, which is reproduced here-in-below:-

“28. Although, according to the Medical Officer there are some minor injuries on the person of the victim which were simple in nature caused by blunt object, but in view of the non-corroboration of the prosecution story of torture and assault, this evidence of the medical witness cannot be made the basis of conviction of the accused persons of the offence of bridal torture and dowry demand.”

In support of his submission that this finding of the learned trial court is perverse, Mr. Chakraborty has taken this court to the evidences of PW-2 and PW-3.

8. I have carefully perused the evidences let in by PW-2 and PW-3. After careful examination of their evidences, it comes to light that none of the above witnesses have stated that they had seen the respondents no. 2, 3 and 4 to misbehave and torture upon the victim lady nor they have stated that the appellant at any point of time made complaint about the alleged torture inflicted upon her by the respondents no.- 2, 3 and 4.

9. In this situation, it is hard to digest the submission of learned counsel appearing for the appellant that the findings of the learned trial court, as stated in para 28 of the judgment and quoted here-in-above, as perverse. In view of this, I find no merit in this appeal.

10. Accordingly, the appeal stands dismissed.

Send down the LCRs.

JUDGE

Saikat



सत्यमेव जयते