

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE:  
BHUBANESWAR.

PRESENT:-

Sri Isan Kumar Das, LLB,  
Addl. Sessions Judge, Bhubaneswar.

CT CASE NO. 6/129 of 2013

(Arising out of GR case No. 2246 of 2010  
Committed by the S.D.J.M, Bhubaneswar)

Date of argument- 28.10.14

Date of Judgment- 10.11.14

S t a t e

Vrs.

1. Siprarani Choudhury, aged about 53 years  
W/o Trilochan Pradhan, of Sailashree Vihar  
PS: Chandrasekharapur, Bhubaneswar, Dist: Khurda
2. Ashok Chandra Choudhury, aged about 53 years  
S/o: Kumar Chandra Choudhury, At: Nalapada  
PS: Mahakalpara, Dist: Kendrapara, A/p: Sailashree Vihar  
PS: Chandrasekharapur, Bhubaneswar, Dist: Khurda
3. Sasmita Sundaray, aged about 41 years  
W/o: Dukhishyam Sundaray, At: Badapari,  
PS : Tangi, Dist: Khurda

....Accused persons

Advocate for the prosecution- Sri N.R. Ray, Advocate

Advocate for Accused persons Sri M.M. Jena, Advocate

Offence Under Sections:- Sec. 341/323/294/506/307/494/34 IPC

J U D G M E N T

All the accused persons stand charged for the offences u/s 341/323/307/294/506/34 IPC. Accused Ashok Chandra Choudhry is further charged u/s 494 IPC in addition to the above offences.

2. The case was initiated against the accused persons on the basis of a complaint petition filed by the informant in the Court of learned SDJM, Bhubaneswar which was forwarded to the IIC, Mahila PS for investigation u/s

156 (3) Cr.P.C. As per the allegation in the complaint petition later turned to FIR that the informant married accused Ashok on 30.5.95, but since the date of marriage her husband alongwith other accused persons were torturing her. Accused Sipra is the sister of accused Ashok who was also taking part in subjecting the informant to mental and physical torture and only after 24 days of marriage the informant was forced to leave the house of the accused persons and continued to stay at Rourkela with her parents. She also reported before police about such dowry torture by the accused persons which was converted to GR case No. 1064/97 and is sub judice before the Court of learned SDJM, Rourkela. It was further ascertained that accused No.2 Sasmita married to Ashok during absence of the informant and therefore, the accused persons did not prefer to have any relation with the informant. While the informant was staying at Rourkela with her parents, the accused persons with an ill motive and to pressurize her to withdraw the criminal case managed to bring her from her father's house and on 11.5.10, the accused persons tried to kill the informant by strangulating her neck at Bhubaneswar. The police took up investigation of the case on the basis of the allegations and submitted charge sheet with the alleged offences.

3. Plea of the defence is complete denial to the allegation and of false implication.

4. The points for determination in this case are

(i) Whether from 24.3.10 till 12.5.10 at Sailashree Vihar, in furtherance of common intention, the accused persons wrongfully confined the complainant and thereby committed an offence punishable u/s 341/34 IPC ?

(ii) Whether from 30.5.95 till date, in furtherance of common intention, the accused persons voluntarily caused hurt by assaulting the complainant and thereby committed an offence punishable u/s 323/34 IPC ?

(iii) Whether the accused Ashok Chandra Choudhury had a wife namely, Pratima Priyambada Choudhury, living having been validly married and that he married Sasmita Sundaray again during

the lifetime of earlier, the said second marriage also being duly performed and thereby committed an offence punishable u/s 494 IPC ?

(iv) Whether on 11.5.10 at sailashree Vihar, in furtherance of common intention, the accused persons caught hold of the hands and leg of the complainant and squeezed her neck with such intention or knowledge and under such circumstances that by that act they had caused the death of the complainant, you would have been guilty of murder and thereby committed an offence punishable u/s 307/34 IPC ?

(v) Whether from 30.5.95, in furtherance of common intention the accused persons abused the complainant in filthy language at their house causing annoyance to her and others and thereby committed an offence punishable u/s 294/34 IPC ?

(vi) Whether on 11.5.10, in furtherance of common intention, the accused persons committed criminal intimidation by threatening the complainant with injury to her person in order to cause alarm to her and thereby committed an offence punishable u/s 506/34 IPC ?

5. During the course of trial, prosecution examined 4 witnesses and defence examined accused Ashok in support of their respective cases. P.W.1 is the mother of the informant and P.W.2 is the informant herself. P.W.3 is the brother in law of the informant and P.W.4 is the IO.

6. The informant in her evidence said that just after the marriage the accused persons demanded dowry which was also complied by her father. Again they demand cash of Rs.1.5 lakhs and tortured thereafter both physically and mentally. After 25 days of marriage, she went to Rourkela to appear in the examination, but the accused persons did not come to her to take her back and again demanded money. One divorce case was also filed by her husband at Chennai against her. In the year 2010, she came back to her in laws house at Sailashree Vihar, Bhubaneswar and came to know that Ashok married another lady who is blessed with two daughters. During her stay with the accused persons they threatened her

to withdraw the cases and also took her signature on some papers. In her cross examination she admitted that she is a devotee of “Iswariya Brahmakumari Organization” and has visited Mount Abu number of times. Although she claimed that she was staying at Sailashree Vihar for some time in the house of the accused persons, she is unable to say the name of the neighbouring house owners. She also failed to say details of the second marriage of her husband. Even she is unable to name the father of the second wife, her address and the date of her marriage. P.W.1, the mother of the informant stated that the accused persons were ill treating her daughter when she was staying with them for which she came back to her. Nothing more comes out of her mouth regarding any assault or second marriage by the accused. On the other hand, in her cross examination, she admitted that she has no direct knowledge regarding the occurrence. P.W.3 said that after 5 to 7 days of marriage of Pratima, she came back to her father's house at Rourkela and thereafter, the dispute started. The IO supported her investigation and said that during her investigation she has not seized the birth certificate of the daughters of accused Ashok in order to ascertain their mother's name, although they were reading in a school. She has also not ascertained to whom Ashok married for second time. On the other hand, accused Ashok in his evidence said that after the marriage in the year 1995, his wife did not keep any conjugal relationship with him and thereafter, she went back to Rourkela and inspite of his request she did not return. She became a devotee in “Prajapita Brahmakumari Organization” at Mount Abu. The case filed against him u/s 498 A IPC at Rourkela has already been disposed of in the Court of learned JMFC, Panposh and all the accused persons have been acquitted by judgment dtd. 22.3.12.

7. This being the evidence available from both the sides, learned counsel for the accused persons argued that the present case is only the outburst of the previous case filed by the informant at Rourkela. The demand of dowry and torture to the informant has already been decided in the previous case and the learned Court after perusal of evidence disbelieved the case of the informant and the accused persons have been acquitted. Further, no appeal has been preferred by the informant and the said judgment stands good till date. The evidence of

P.W.2 that she was ill treated by the accused persons with the demand of dowry having been failed. In the complaint petition, it was alleged that on the night of 11.5.10, accused Ashok forced her to sign on a paper and on her protest, the accused tried to kill her by strangulating her neck. Such allegation in the complaint petition is neither corroborated in the mouth of informant herself, her mother or any other witness examined by the prosecution. No medical evidence is also available to believe that the accused persons assaulted the informant intending to take away her life and also there is no evidence that the informant had been to hospital for the treatment of any injury. Such bald allegation in the complaint petition is not substantiated in any manner and therefore, I feel offence u/s 307 IPC is not well made out during the trial of the case.

8. As regards offence u/s 494 IPC, it is alleged that accused Sasmita married Ashok after the informant left her marital house and she is also blessed with two daughters. But, the mother of the informant during her examination did not open her mouth regarding any second marriage of Ashok. On the other hand, Sasmita during her statement recorded u/s 313 Cr.P.C stated that she is the wife of one Dukhishyam Sundaray. The informant herself failed to say details of second marriage and only claimed that Ashok is having two daughters through his second wife Sasmita. P.W.3 also did not say about any second marriage. The IO of the case during her cross examination said that she seized the school admission register of ODM public school vide Ext.3. But, there is no evidence in her mouth about the name of the two girls admitted in the school and when they took birth. She fairly admitted that she has not ascertained about the second marriage of accused Ashok during her investigation. In view of such evidence, it is also not possible to believe that Ashok married Sasmita for the second time during the lifetime of his first wife and therefore, he will be liable u/s 494 IPC.

9. As regards offence u/s 341/323/294/506/34 IPC, I have examined the evidence adduced by the witnesses. As I have observed above that the mother of the informant and her brother in law did not support the prosecution case in any manner, the only evidence of the informant herself does not stand fit to prove the

case against the accused persons. She only claimed that the accused persons tortured her with the demand of dowry and the said allegation has already been decided in the previous case u/s 498 A IPC in the Court of JMFC, Panposh. Therefore, there is no scope again to reconsider the matter in this Court. The accused himself while examined as DW No.1 stated that the informant remained at his house at Rourkela only for 10 to 15 days and by that time she was a devotee for which she remained aloof without any marital relationship at her in laws house and thereafter, she went to Rourkela and did not come back again. Only in the year 2010, the informant came to Bhubaneswar to attend a meeting of the devotees and by that time, she visited the accused and addressed him as brother. She also demanded cash of Rs.50,000/- in order to compromise the case and as he did not agree to such demand she filed false case. Although, learned Addl.PP cross examined the accused, nothing substantial has been elicited from his mouth to disbelieve his evidence. After perusal of evidence on record, I find prosecution has miserably failed to prove the case against the accused persons beyond reasonable doubt.

10. In the result the accused persons are found not guilty for the offences u/s. 341/323/294/506/307/494/34 IPC and they are acquitted therefrom in accordance with provision u/s.235 (1) of Code Criminal Procedure. They be set at liberty forthwith. Their bail-bonds be cancelled and surety be discharged.

11. The seized articles, if any be destroyed after four months of appeal period is over, if no appeal is preferred or in case of appeal the same be dealt with in accordance with the direction of the Hon'ble Appellate Court.

Pronounced in the open Court today this the 10<sup>th</sup> day of November, 2014.

Dictated and Corrected by me.

Addl. Sessions Judge, BBSR

Addl. Sessions Judge, BBSR

List of witnesses examined for the prosecution

P.W.1:- Pravabati Behura

P.W.2:- Pratima Priyambada

P.W.3:- Pratap Kishore Naik

P.W.4: Puspanjali Jena

List of witness examined for the defence

DW No.1: Ashok Choudhury

List of exhibits marked for the prosecution

Ext.1: Complaint petition

Ext.1/1: Signature of P.W.1

Ext.2: Seizure of photographs

Ext.2/1: Signature of P.W.4

Ext.3: Seizure list

Ext.3/1: Signature of P.W.4

Ext.4: Zimanama

Ext.4/1: Signature of zimadar

Ext.4/2: Signature of P.W.4

List of exhibits marked for the defence

Ext.A: Certified copy of judgment

Addl. Sessions Judge, Bhubaneswar.