

Form No. J(1)

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

Present :

**The Hon'ble Justice Rajasekhar Mantha
And
The Hon'ble Justice Rai Chattopadhyay**

**C.R.A. 425 of 2014
Prasenjit Mondal @ Sonai & Ors.
Versus
The State of West Bengal.**

For the Appellant : Mr. Sekhar Kr. Basu, Id. Sr. Adv.,
Mr. Avijit Ganguly,
Mr. Siladitya Banerjee.

For the State : Mr. Ranabir Roy Chowdhury,
Ms. Sujata Das.

Hearing concluded on : 16th April, 2026.

Judgment on : 16th April, 2026.

Rajasekhar Mantha, J.:

1. The subject appeal is directed against judgment and order of conviction dated 4th June 2014 and order of sentence dated 5th June 2014 passed by **Additional Sessions Judge, Paschim Medinipur** in **Sessions Trial Case No. VII/March/2013** arising out of **Sessions Case No. 50 of 2014**. The appellants were convicted under Sections 498A and Section

- 302 r/w Section 34 of the IPC. **Appellant No.3 Mridula Mondal, mother** of Appellant No.1, died during the pendency of this appeal.
2. The appellants were sentenced to life imprisonment and to pay a fine of Rs 2000 for the offence under Sec. 302, IPC. In default, to further undergo an imprisonment for 6 months. The appellants were sentenced to rigorous imprisonment for 3 years and to pay a fine of Rs 1,000 for the offence under Sec. 498A, IPC. In default, to further undergo an imprisonment for 2 months. The period of detention undergone during investigation and trial was to be set off from aforesaid imprisonment.

THE PROSECUTION CASE, EVIDENCE ON RECORD AND ANALYSIS OF THIS COURT

3. **PW 1 was Madan Mohan Mahala.** He was the complainant and father of the victim. He stated in his complaint dated June 30th, 2012 to the Anandapur PS that his daughter was murdered by his son-in-law and his parents, in her matrimonial home. Monimala Mondal @ Mampi was the victim. She was an Honours Graduate in Philosophy.
4. PW-1 was a cultivator having about 20 bighas of land and several tube-wells. The victim was married to the **appellant no. 1, Prasenjit Mondal, @ Sonai, son of Laxmikanta Mondal Appellant No.2** and **Mridula Mondal, Appellant No.3** on 5th July, 2011. The marriage was arranged and was held in the house of **PW-10, Sandip Chowdhury**. A girl child was born from the wedlock, sometime in April 2012. The victim was pretty and educated.

5. PW 1 further deposed that in course of such marriage negotiations, gifts such as a large size of cot, bronze and brass utensils and gold ornaments were presented to the newly wedded couple. They were gifted by PW-1. The marriage was performed by **PW-7, Sananda Chakraborty**, the priest, who performed the ceremony, confirmed the delivery of the wedding gifts. A sum of Rs.50,000 was also promised to the appellants by PW-1 which was not paid.
6. The PWs 1-5 and the PWs 8, 9, 10 and 11 deposed that the appellants of the victim used to torture her right from the inception of her marriage. The appellants regularly demanded for dowry from the victim. PW 1 has deposed that he promised at the time of marriage to give a dowry of Rs 50,000 in cash, as was demanded by the appellants but could not pay the said amount.
7. On the first '**Jamaisasthi**' (*a Bengali ritual where the son-in-law and daughter are ceremoniously fed and presented gifts by the girl's family*) once a year after the wedding, the appellant Prasenjit Mondal @ Sonai visited the house of his in-laws namely PW 1 and **PW 3, Shikha Mahala, the mother of the victim.**
8. PW 1 has deposed that the appellant no. 1 demanded dowry of an ad-hoc sum of Rs 20,000 during the said visit. He however could only give Rs. 4,500/- to the appellant no. 1 either from a bank account or from his own funds.

9. While PW-1 and PW-3 have deposed that both their daughter (victim) and son-in-law, the appellant no. 1, together came to their house for '*jamaisasthi*', the appellant no. 1 has denied the same in his examination under Section 313 of the CRPC. He stated that he went alone on his motor-cycle. This appears to be unusual as on occasion of '*jamaisasthi*' normally the daughter and son-in-law, together visit the former's parental house.
10. Be that as it may, on 29th June, 2012, the marriage of daughter of **DW-4, Abhijit Karan**, was being solemnized. Usual invitations to friends and families and neighbors were sent. The appellants lived in a village called 'Karangpota'. The parents of the victim lived in a place called 'Shithli', at a distance of about 80 kms.
11. The defense has run the case that the three appellants and other members of their family went to attend the marriage in the house of DW-4 around the time of occurrence of the crime. Four DWs, 3 of whom were neighbors and co-villagers, were examined to establish the alibi of the appellants.
12. The exact time when the appellants left the house of DW 4, which is very crucial to the case of the defense as well as the prosecution, is, however, not available on record. The alibi therefore has not come to the aid of the appellants. The evidence of DW-1 to DW-4 only suggests that the appellants left their house at around 7-7.30 pm.

13. The said defense witnesses were engaged in the potato farming and meat business. They were holding a meeting of a political party near to the place of occurrence, i.e., the house of the appellants. They heard a sound from the house of the appellants and particularly the sound of a child crying. They arrived at the place of occurrence along with other persons and found the door of the two-storied house closed by a grill without lock, behind the collapsible grill was a door.

1. They immediately summoned one Panchanan Babu, **grandfather of the appellant no. 1**. He opened the main door when PW -1 to PW 4 and others entered the house. They thereafter went to the first floor of the house and found the door locked from inside.

2. Panchanan Babu peeping through a window on the bedroom located in the first floor found the victim Monimala hanging from the ceiling hook, tied with a saree around her neck. They brought the body down and removed the saree from the neck of the victim. A local doctor was summoned, who declared the victim dead.

3. Upon being informed, the appellants left the marriage ceremony at the house of DW-4 and came back home. One of the brothers of the appellant no. 1 informed the parents of the victim that the victim is ill. The family of the victim and relatives arrived at the P.O. later in the night in three vehicles.

4. PW-1 has deposed that he found several injuries on the body of the victim and a light ligature mark on her neck. He also found ligature markson the wrist of the victim, which indicated that the wrists of the victim were tied. The PWs have deposed that upon arrival of the appellants and finding the victim had died, the latterhad a brief conversation with their family members and the family of the victim.

5. PW-1 and PW-2 and others went to the local police station. Anandapur Police Station, later in the night, which refused to formally record FIR until **PW-2, brother of PW-1**, formally wrote out a complaint. The said complaint stated that the marriage of the victim was solemnized a year ago and that there were regular torture inflicted by the appellants on the victim for the failure of the latter to bring dowry from her paternal home.

6. The dowry was probably agreed at the amount of Rs. 50,000/-. This waspromised by PW-1 to the appellants at the time of negotiating the marriage. The appellants were named as the accused persons in the said complaint for ending the life of the victim.

7. The police arrived at the PO the next morning. In course of inquest conducted by a Magistrate around 10-10:30 AM, on the next day i.e. 30th of June, 2012, several black bruises were found on the victim's body and two injuries were found on the left arm. Another bruise was found with a blood clot on the back of the victim and an injury on the vertebral column. PW 1 attended the inquest along with the appellant no. 1. PW 1

did not indicate to the police as to the reasons or circumstances under which the victim died. The said silence of PW 1 may be attributed to the presence of his son-in-law at the time of inquest.

8. The body was sent later, for post mortem and **PW 15 Dr. Samar Sinha Das** conducted it. Injuries on the body of the victim and the cause of death recorded by the P. M. Doctor are as follows :

- 1) "Multiple abrasions of varying shape and sizes from $\frac{1}{4}$ " x $\frac{1}{4}$ " to $\frac{1}{2}$ " x $\frac{1}{2}$ " placed irregularly almost all over the body. Abrasions were fresh and non scabbed.
- 2) Abrasion 7"x3" placed transversely over mid part of front of neck equally on both sides. On dissection I found extensive extravasation of blood 7"x4" placed transversely over mid part of front of neck equally on both sides with fracture of hyoid bone & thyroid cartilage.
- 3) Bruise 5" x 5" placed over right scapular region.
- 4) Bruise 6" x 5" placed over left scapular region.
- 5) Bruise 5" x 5" placed over left gluteal region.
- 6) Bruise 5" x 4" placed over right gluteal region.
- 7) Bruise 3" x 3" placed over right malar prominence.
- 8) Bruise 3" x 2" placed over left malar prominence.
- 9) Bruise 7" x 4" placed over postero-lateral aspect of left arm.
- 10) Bruise 7" x 3" placed over postero-lateral aspect of right arm.
- 11) Bruise 6" x 3" placed over back of right forearm.
- 12) Bruise 6" x 3" placed over back of left forearm.
- 13) Bruise 10" x 5" placed over postero-lateral aspect of right thigh.
- 14) Bruise left eye measuring 3"x3". Bruises were red in colour. The injuries showed evidence of vital reactions. No other injury could be detected even on careful dissection & examination under a hand lens.

All the injuries showed evidences of vital reactions. I found no other injuries, even on careful dissection and examination under a hand lens.

Death was in my opinion due to the effect of strangulation associated with injuries as noted in my report, ante mortem and homicidal in nature.

This is the post mortem report consisting of all three pages in computerized print and duly signed by me with date and official seal, (exhibit-9). It is prepared as per my instruction, direction and words.

By evidences of vital reaction it can be said that the deceased was severely assaulted.

The ligature mark on the neck as detected is possible by strangulation by a synthetic 'saree'."

9. In the meantime, Anandapur Police Station based on the written complaint of the PW 1 dated 30.06.2012 recorded FIR being no. 42 of 2012 dated 30.06.2012 under Section 498A, 304B and 302 of the IPC read with Sections 3 and 4 of the Dowry Prohibition Act. FIR was recorded at about 9 a.m. Inquest was conducted at about an hour later i.e. 10 a.m.

10. Charges were framed against the three accused persons, Prasenjit Mondal, Laksmikanta Mondal and Mridula Mondal under Section 498A/304B/302 read with Section 34 of the IPC on 02.04.2013 by the trial court. The trial commenced.

11. Mr. SekharBasu, learned senior advocate, appearing for the appellants has relied on **paragraph 11 of the decision of a Co-ordinate Bench in the case of Mobarak Sk. @ Mobarak Hossain and others Vs. State of West Bengal reported in 2011(1) Calcutta Criminal L. R.(Cal)**

687. The said case however on face of it becomes distinguishable on facts.

12. In **Mobarak decision (supra)**, FIR was recorded immediately after the inquest. The FIR named the accused persons. The inquest report, however, did not do so. Since the FIR was lodged just after the conduction of the inquest, a coordinate Bench held that the inquest report ought to have recorded the names of the accused persons. The naming of the appellants in the FIR was thus found to be suspect and an afterthought.
13. In this case however, the FIR has been recorded much before the inquest based on the complaint by PW 1. The FIR named the appellants as accused. PW 1 did not name the appellants as accused in the inquest since the latter were present during the inquest. The **Mobarak Sk. Decision (supra)** is thus not applicable to this case.
14. PW 1 has deposed that after marriage, his daughter often called him crying with regard to the regular demands of dowry made by the appellants, the physical assault by the appellant no. 1 as well as the taunting abuses of the appellant no. 2 and 3 on her.
15. PW 1 has deposed that on 26th June, 2012 i.e. on the day of "Jamai Sasthi", the appellants and the victim came to their house when the appellants once again demanded dowry and were willing to settle for an ad-hoc amount of Rs.20,000/- for the time being.

16. On 29th of June, 2012 the victim is stated to have called his cousin sister, **KakaliPahan, PW 4** and was groaning in pain. The victim asked PW 4, to take care of the minor daughter of the victim if the latter did not survive. The phone call got disconnected. Admittedly, the phone or call data record was not seized by the Police.
17. PW 1 has further deposed that he was initially informed by the other prosecution witnesses that the victim may have consumed poison and is taken to the Hospital. He was later informed by the father of the appellant no. 1 that the victim was ill.
18. PW 1 reached the PO accompanied by the fellow villagers, friends, PW-2 and other persons in three vehicles. They arrived at the place of occurrence late in the night. He confirmed that the victim was found lying on the floor of a mat with the table fan placed near her. He deposed on the lines of the prosecution case as narrated hereinabove.
19. PW 1 was extensively cross-examined by the appellants. PW-1 has withstood the cross-examination. **PW-2 was Badal Mahala, brother of PW-1 and PW-3 was Sikha Mahala, wife of PW-1.** They deposed on the same line as PW-1.
20. The star witnesses of the prosecution were **PW-4, KakaliPahan** and **PW-5, Naba Kumar Pahan**, whose statements under Section 164 of the Code of Criminal Procedure were recorded before PW-16 a Judicial Magistrate.

PW-4 has confirmed that she was the cousin sister, with whom the victim often spoke over phone.

21. PW 4 has deposed that she shared a mobile phone with her husband **Naba Kumar Pahan (PW-5)**. On being called by the victim, PW-4 initially did not pick up the phone. She called back the victim and heard her crying and groaning in pain.

22. PW 4 further confirmed torture and severe beating by the appellant no.1 and stated that in the absence or death of the victim, PW-4 would have to take care of her little child. The phone was disconnected by the victim immediately. Attempts by PW-4 and PW-5 to call back the victim failed. PW-4 and PW-5 confirmed that the victim was groaning in pain.

23. **PW-6, a Co-villager was declared hostile.** He deposed that the victim was happy in her matrimonial home. He denied the entire prosecution case. PW-8 was also declared hostile along with PW-7, who deposed on the same lines as PW-6.

24. The prosecution case was supported primarily by the evidence of PW-1, PW-2, PW-3, PW-4, PW-5, PW-10 and PW-11. Each of them confirmed that the victim had told them that she was tortured on a regular basis by the appellants. Some of the witnesses also indicated that the appellant no.1 was a habitual and compulsive drunkard.

25. **PW-17, was the Investigating Officer of the case, S.I. Jiban Krishna**

Das. Indeed as argued by Mr. Basu, learned Senior Counsel and his learned Junior Mr. Ganguly that some of the prosecution witnesses did not inform the Investigating Officer during investigation that the victim was tortured. In fact PW-4 and PW-5 did not inform the I.O. about the phone call with the victim on that fateful day. CDR and the mobile phone of PW-4 and PW-5 were not seized by the I.O.

26. Learned counsels for the appellants have argued the story of prosecution witnesses having received calls from the victim on the fateful day emerged for the first time in course of the trial. This omission to the IO will not ipso facto render the factum of calls being made by the victim to PW 4 unbelievable when the same is deposed in the trial and has withstood the test of cross-examination.

27. In fact, PW 4 and 5 in their statement before the magistrate have related the calls made by the victim to the former. PW 4 and 5 may have been in a trauma when they were interrogated by the police. Thus, they could not recall such calls made by the victim to them.

28. The consistency of the evidence of PW-4 and PW-5 tendered in the trial with their statements recorded under Section 164 of the Code of Criminal Procedure makes up for the omission to inform the IO about the said calls made by the victim. The evidence of assault and torture by the appellant no.1, husband of the victim is clearly established from the

evidence of PW-1, PW-2, PW-3, PW-4, PW-5, duly supported by the evidence of PW-10.

29. While it is true that the prosecution evidence has not clearly indicated that any of the appellants were present in the house at the place and time of occurrence, what, however, stands out before this Court is the injuries on the body of the victim indicated by the Post Mortem Doctor.

30. The said injuries could not have been inflicted by the victim on herself. The said injuries further lend credence to the evidences of PW-1 to PW-5 and PW-9 to PW-11 that the victim was continuously harassed, severely assaulted and tortured for dowry. The bruises inflicted on the victim were anti mortem and severe. The injuries have established that the victim was most likely strangled to death or committed suicide unable to bear the torture.

31. The victim was either hanged by PW-1 and the other appellant or committed suicide by hanging herself. In either case, the offences under Section 302 and/or Section 304B of the Indian Penal Code are clearly and completely attracted, and warranted the maximum punishment.

32. Mr. Basu, learned Senior Counsel and Mr. Ganguly, learned Counsel for the appellants has argued the appellant no.1 visited the house of the victim on Jamaisasthi. Thus, the victim cannot be murdered by the appellant no. 1 just after two days.

33. The said argument pales when we take note of the events that took place in the paternal house of the victim on the said Jamaisasthi. The appellant asked for Rs 20,000 from PW 1 on the said day of Jamaisasthi. The victim protested against the said demand. PW 1 could only pay Rs 4,500. Thus, the appellant no. 1 was not satisfied with the victim and PW 1. He threatened the victim with dire consequences.
34. Learned senior counsel for the appellants has next argued that the appellants took the victim to a Hospital during the birth of her first child. They took care of the victim and child in her womb. The birth of a child is not peculiar to the victim. The child was a blessing for everyone in the family. Thus, the conduct of the appellants towards the victim should not be assessed on their conduct towards a child born from the wedlock of the victim and appellant. The appellants wanted money from the victim's family, which they did not receive, and hence followed the torture.
35. PW 4 has deposed that in absence of the victim, she was to take care of the girl child. The victim on that fateful day informed PW 4 over phone that the minor child should be taken care of by the latter if the former dies. The victim thus did not trust the appellants with the child.
36. Thus, the appellants were not concerned about the future of the child after her birth. If they had so, they would not have persisted with their illegal demand for dowry. The child was placed in State custody after the death of the victim.

37. Learned senior counsel for the appellants has argued that the appellants arrived at the PO from the wedding and were in tears when they saw the dead body of the victim. The same is an emotional argument.
38. The medical evidence and the evidence of PW-1 to PW-5, particularly PW-4 and PW-5 invariably indicate torture of the victim over a year and physical assault from time to time and the brutal injuries inflicted on her before she was forced to either end her life or being killed by the appellants.
39. The alibi has not assisted the appellants. Thus, the injuries inflicted on the victim and the dissatisfaction of the appellant no.1 arising from not receiving Rs 20,000 indicates that the appellants have reason to kill the victim. The injuries are such that could not have been inflicted by the victim on herself.
40. The chain of circumstances discussed hereinabove have established the following:-
- a) The appellants used to torture the victim for being unable to bring Rs 50,000 from her parental home. The said amount was demanded at the time of marriage.
 - b) The appellants made the father of the victim undertake that he shall pay the said amount of dowry after the marriage.
 - c) The father of the victim was not poor. He owned 20 Bighas of land. Thus, the appellants aggressively insisted on dowry. PW 1 however could not pay the full dowry. He had 20 Bighas of land.

He, however, did not have liquid money. The victim was regularly tortured at her matrimonial home. The PM Doctor has found severe injuries on the dead body of the victim, which have been suffered over a period of time. The appellant No.1 was an alcoholic and the injuries on victim in such state is often more severe than usual.

- d) On the fateful day, the victim, after being severely assaulted tried to call PW 4, her cousin sister. She wanted to inform that her life is in danger. PW 4 has heard that the victim was asking for help and crying in pain. Thereafter, the dead body of the victim was found.
- e) The appellants attempted to run the case that they were present in the house of DW 4 to attend a marriage ceremony. They, however, could not specify the time of their departure and arrival at the home of DW 4. The alibi raised thus failed.
- f) Appellant No. 1, 2 days before the fateful day visited his in-laws' house. The appellant no.1 did not get the dowry as demanded. He thus returned home with the victim. The appellant no.1, was, thus clearly present at the PO with the victim.
- g) The medical evidence has established that the victim was strangled to death after being severely injured. The victim thus died by human intervention. The appellant no.1 who took the

victim from her parental home to the matrimonial home thus cannot escape the burden to explain as to who killed the victim.

41. In the light of the above discussion, the conviction of the appellant no.1, namely, Prasenjit Mondal @ Sonai by the Trial Judge calls for no interference whatsoever.

42. However, in so far as the surviving appellant, namely, Laxmikanta Mondal, this Court finds no clear evidence implicating him or demonstrating any specific role played by him in committing any offence under Section 302 or Section 304B of the Indian Penal Code against the victim.

43. Mridula Mondal, the appellant no.3 has died during the pendency of the appeal. Except a murmur or two from same prosecution witnesses there is no direct evidence linking any specific role that can be assigned to or inferred against Mridula Mondal either. This Court, therefore, is of the view that the role of Laxmikanta Mondal and Mridula Mondal has not established beyond reasonable doubt by prosecution.

44. Thus, his Court is of the view that the surviving appellant, namely, Laxmikanta Mondal must be acquitted.

45. In the facts and circumstances of the case, C.R.A. 425 of 2014 is dismissed against the appellant no.1, Prosenjit Mondal @ Sonai. The appeal is allowed in so far as the surviving second appellant Laxmikanta Mondal is concerned.

46. C.R.A. 425 of 2014 along with CRAN 4 of 2026 is hereby disposed of in the aforesaid terms.

47. It is submitted that the appellant no.2, Laxmikanta Mondal is on bail, his bail bond shall stand discharged and he shall be set at liberty.

48. Let the TCR along with a copy of this judgment be returned back to the trial Court for necessary action.

49. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

I agree.

(Rai Chattopadhyay, J.)