
(2025) 11 JH CK 1963

In the Jharkhand High Court

Case No : Criminal Appeal (S.J) No.915 of 2004

Narayan Kaibarta, son of Dhiren Kaibarthar

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 17-11-2025

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 323, 324, 498A

Citation : (2025) 11 JH CK 1963

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : Samir Kumar Lall, Prabir Kr. Chatterjee

Final Decision : Partly Allowed

Judgement

Rajesh Kumar, J

1. Heard Mr. Samir Kumar Lall, learned counsel for the appellant and Mr. Prabir Kumar Chatterjee, learned Special P.P.

2. The present appeal is directed against the Judgment of conviction and order of sentence dated 18.05.2004, passed by learned Sessions Judge, Seraikella-Kharsawan, in Sessions Trial No.89 of 2003, arising out of Gamharla P.S. Case No.06 of 2003 (G.R. No.47 of 2003), whereby the appellant has been convicted under sections 324 & 498(A) of the Indian Penal Code (IPC) and has been directed to undergo rigorous imprisonment for two years for the offence under Section 324 IPC and two years rigorous imprisonment for the offence under Section 498(A) I.P.C. Both the sentences were directed to run concurrently.

3. The criminal law has been put into motion by lodging an F.I.R being Gamharla P.S. Case No.06 of 2003 dated 25.01.2003 in the district Seraikella-Kharsawan. The F.I.R has been lodged on the fardbeyan (Ext.-2) of informant namely, Ganga Kaibarta (P.W.-2).

The prosecution case, as disclosed in the F.I.R., in brief, is that the informant,

Ganga Kaibarta (P.W.-2) is married to accused Narayan Kaibarta. It has been alleged that after 2½ years of her, she gave birth to a female child. After that all the accused persons started torturing her in different ways. She was assaulted at times and she was not given meal on times. A Panchayati was also convened in the village in which accused persons had undertaken to keep her properly and a Panchanama was also prepared, however, that could not help in improving their attitude towards her. They continued their torture to her. On 25.01.2003, her husband started abusing her on the point of preparing meal and on protest by her he gave bhujali blow on her head as a result of which she fell down and started raising alarm. Then, the accused drove her out from the house and then she came to her father's house and disclosed about the incident. She was taken to the police station where she gave her statement and she was also referred to hospital for treatment.

On the basis of said allegation, the F.I.R has been lodged against three accused persons including the present appellant. The other two accused persons are her father-in-law and mother-in-law. After the investigation, the charge-sheet has been submitted under Sections 498(A), 307/ 34 I.P.C on 15.04.2003. Thereafter, cognizance has been taken and charges have been framed under the aforesaid Sections and the case has been committed to the court of Sessions to which the accused persons including the appellant have pleaded innocence and claimed to be tried.

4. To substantiate the prosecution story, the prosecution has examined altogether 7 witnesses.

5. P.W.-1, Nandlal Kaibarta, is the father of the informant. He has stated that the accused persons used to torture his daughter for which a panchayati was also held.

6. P.W.-2, Ganga Kaibarta, is the informant of the case. She has supported the case. In her cross-examination, she has admitted that at the time of occurrence, she and her husband were living in a old house and only her husband had assaulted her on the day of occurrence.

7. P.W.-3, Janardan Kaibarta, is the brother of P.W.-1. He is a hearsay witness.

8. P.W.-4, Surjo Kaibarta, is the maternal uncle of the informant. He is related with the accused and has supported the prosecution story.

9. P.W.-5, Sukhlal Kaibarta, is the neighbor and an independent witness. He has stated that the accused were torturing the informant by not giving her proper meal and assaulting her.

10. P.W.-6, Upendra Singh, is the Investigating Officer. He has stated that he had visited the place of occurrence and no incriminating article has been found. In cross-examination, he has admitted that the informant and her husband used to live in a different house whereas the father-in-law and mother-in-law used to live in a separate house.

11. P.W.-7, Dr. Sujata Saha, is the doctor, who has examined the injury over the informant. She has found the injuries simple in nature, caused by hard and blunt substance such as back side of bhujali.

12. The trial Court, after evaluating the evidence and material available on record, has acquitted two accused persons and found the present appellant, i.e., the husband, guilty under Sections 324/ 498(A) of the Indian Penal Code. Accordingly, the appellant has been convicted for the offence punishable under Sections 324/ 498(A) of the Indian Penal Code.

13. Referring to the above materials available on record, the learned counsel for the appellant has submitted that :-

(I) the offence under Section 324 IPC is not made out as no dangerous weapon has been used and as such, the conviction under Section 324 IPC is bad in law, rather the conviction should be under Section 323 IPC.

(ii) the offence under Section 498(A) IPC is also not made out as there is no danger to life rather the injury suggests to be simple in nature, caused by hard and blunt substance. But, as per the ocular evidence, bhujali has been used, then it may be from the back-side of bhujali, i.e., butt.

(iii) there is no allegation of demand of dowry or any valuable property.

(iv) further, the appellant has remained in custody for about four months in custody, during trial, and as such the sentencing part may be reduced to the period already undergone by the appellant.

14. On the other hand, learned Special P.P has supported the judgment of conviction and order of sentence. It has been submitted that a woman (informant) has been harassed and the injury is also there, which has been supported by the ocular evidence also.

15. Having heard learned counsel for the parties and from perusal of the record, it appears that :-

(a) the injury caused is simple in nature.

(b) although the allegation is regarding use of bhujali, but it has been submitted that only the back side, i.e., butt of bhujali has been used, which gets corroboration by the medical report and as such there is no any intention to cause any grievous injury or it cannot be said that dangerous weapon has been used.

(c) the appellant has remained in custody for about four months and as such he has sufficiently been punished.

16. In view of above discussions, this Court finds that the conviction of the appellant under Section 324 IPC is bad in law and accordingly, it is, hereby, converted to Section 323 IPC.

So far as the conviction of the appellant under Section 498(A) IPC is concerned, since no grave injury has been sustained by the informant, accordingly, the conviction under Section 498(A) IPC is, hereby, set aside.

17. In view of above conviction of the appellant, the sentencing part is reduced to the period already undergone by him.

18. With the above modification, the present appeal is, hereby, partly allowed.

19. The appellant is on the bail, hence, he is discharged from the liability of bail bond.

20. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.