

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.24 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- SAMASTIPUR

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Renu Devi wife of Akshay Kumar Jha, resident of Manika, P.O. - Ahtiyarpur, P.S.-
Sariaranjan, District - Samastipur.

.... Appellant/s

Versus

1. The State of Bihar.
2. Akshay Kumar Jha, resident of Manika, P.O. - Akhtiyarpur, P.S. - Sariaranjan,
District - Samastipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Deepak Kumar Singh, Advocate

For the Respondent/s : Mrs. Abha Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-07-2015

The instant application has been filed under section 378(4) of the Code of Criminal Procedure (for short “the Code) seeking leave to appeal against the judgment of acquittal dated 3.12.2014 passed by the learned Judicial Magistrate, 1st class, Samastipur in Complaint Case No.728 of 2006 corresponding to Trial No. 3357 of 2014 whereby the respondent no.2 has been acquitted of the charge under section 498A of the Indian Penal Code.

2. The case of the appellant Renu Devi, as per the complaint petition filed on 25.6.2010, is that she was married to respondent no.2 Akshay Kumar Jha as per Hindu rites about twenty five years back. At the time of marriage, father of the complainant



gave rupees twenty five thousand in cash, ornaments amounting to rupees seventy five thousand and other articles such as clothes, utensils, table chairs etc. to the accused persons by way of gift. Out of the wedlock, two children, namely, Pankaj Kumar and Puja Kumari were born. In the year 2005, the complainant fell ill and was bedridden and during illness the complainant and her father communicated to respondent no.2 Akshay Kumar Jha through letter and also telephonically about the illness of the complainant but he did not come to look after her. Again in the year 2008, Akshay Kumar Jha came and took the children and the complainant on the pretext of keeping them with full dignity and honour. The complainant has further alleged that once again the accused persons started torturing her and said that if she would bring rupees ten thousand in cash as dowry, she would be allowed to live in the house. Since the complainant failed to fulfill the dowry demand raised by the accused persons, all her belongings were retained by them. They forcibly kept the minor daughter of the complainant and kicked her out of the matrimonial home. The complainant being insulted came to her father's house and narrated the entire story. Thereafter, the family members of the complainant went several times to the house of the accused persons but they were rigid to their demand of dowry. It has further been alleged that the accused persons married complainant's

daughter Puja Kumari somewhere without the knowledge of the complainant.

3. The complainant was examined on solemn affirmation and in course of enquiry three witnesses were examined in support of her case. After holding enquiry, cognizance of the offence punishable under section 498A of the Penal Code was taken only against respondent no.2 Akshay Kumar Jha and he was summoned under section 204 of the Code for facing trial. After framing of charge, three witnesses, namely, Radha Kant Mishra (C.W.1), Yamuna Devi (C.W.2) and Renu Devi (C.W.3) were examined during trial. Though the defence did not adduce any oral evidence, they exhibited certain documents in support of innocence of the accused Akshay Kumar Jha. It would appear from the record that the learned Magistrate after appreciating the evidence has come to a finding that there are lots of contradictions in the evidence. He has recorded that though the complainant has stated in her deposition that she is residing in her Naihar since ten years but her father has deposed that her daughter lastly came to her Naihar in the year 2010. The learned Magistrate has further recorded that the complainant has deposed that her children were born in her Naihar whereas the documents produced by the defence marked as Ext.B and B/1 would show that the children were born at Relinace Clinics, Calcutta. The court below has further

recorded that though the complainant has deposed that rupees ten thousand was demanded as dowry but her mother has stated that demand was being made for treatment of the complainant.

4. Taking into consideration all these discrepancies in evidence of the witnesses examined during trial, the learned Magistrate has recorded a judgment of acquittal. In my opinion, the learned Magistrate has appreciated the evidence on record correctly and has given clear, cogent and convincing reasons for recording the judgment of acquittal.

5. In that view of the matter, I do not find any merit in the present application. Accordingly, leave to appeal is refused. The application stands disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

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