

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1019 of 2014

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1. Shankar Mahto S/o Ramdeo Mahto
2. Ramdeo Mahto S/o Late Charitra Mahto
3. Koshalya Devi W/o Ramdeo Mahto. All R/o Village- Bhasar, P.S. + District- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Veena Devi W/o Shankar Mahto, D/o Ram Pratap Mahto, R/o Village- Bhasar, P.S. + District- Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Jha, Advocate
For the Respondent/s : Mr. Arun Kr. Panday (APP)
For the Informant : Mr. Mahendra Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 08-11-2016 By judgment and order of conviction passed by learned Sub-Divisional Judicial Magistrate, Sitamarhi (Sadar), dated 14.12.2012, in trial No. 51 of 2012 arising out of G. R. No. 319 of 2003, the petitioners have been convicted of the offence punishable under Section 498A of the Indian Penal Code and have been sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 2,000/- each for the said offence with the stipulation that in default of payment of fine, they will have to undergo simple imprisonment for further period of six months. In addition, the petitioner No.1 Shankar Mahto has been held guilty of the offence punishable under Section 494 of the Indian Penal

Code and has been sentenced to undergo simple imprisonment for two years for the said offence and a fine of Rs.2,000/-, failing which to undergo simple imprisonment for a further period of six months.

2. The appeal preferred against the said judgment and order, dated 14.12.2012, passed in Criminal Appeal No. 02 of 2013 has been dismissed by learned Sessions Judge, Sitamarhi and thus, the judgment and order of conviction and sentence passed by learned Sub-Divisional Judicial Magistrate, Sitamarhi, dated 14.12.2012, has been affirmed at the appellate stage. Aggrieved by the judgment and order, dated 05.08.2014, by the learned Sessions Judge, Sitamarhi, passed in Criminal Appeal No. 02 of 2013, the petitioners have preferred present Criminal Revision application under Sections 397 and 401 of the Code of Criminal Procedure.

3. Learned Counsel for the petitioners, despite having made his best efforts has not been able to make out a case that concurrent findings of facts recorded by the Courts below are so perverse as to warrant interference by this Court in revisional jurisdiction.

4. After having failed in his attempt to convince this Court that the concurrent findings of facts suffer from the vice of



perversity, learned Counsel for the petitioners has attempted to persuade me that a lenient view ought to have been taken by the Courts below while imposing sentence for imprisonment. He has submitted that the entire dispute arose, leading to initiation of a criminal case, because of lack of matrimonial harmony between the petitioner No.1 and the informant. He has submitted, in that background, that imposition of sentence of two years imprisonment is harsh. He has also submitted that so far as petitioner Nos. 2 and 3 are concerned, they have been held guilty mainly because of the matrimonial disharmony between the petitioner No.1 and the informant.

5. As has been indicated above, I do not find any perversity in the concurrent findings of fact recorded by the Courts below, leading to conviction of the petitioners, nor do I find any exceptional circumstance requiring this Court to interfere with such findings.

6. Coming to the question of sentence, so far as petitioner No.1 is concerned, he has been held guilty of the offence punishable under Section 494 of the Indian Penal Code apart from his conviction under Section 498A of the Indian Penal Code. The sentence of simple imprisonment for a period of two years, in case of petitioner No.1, in such circumstance, to me, does

not appear to be unreasonable and disproportionate. So far as imposition of fine on petitioner No.1 is concerned, I do not find any flaw or legal infirmity in the same rather the same is just and proper in the facts and circumstances of the case.

7. However, so far as petitioner Nos. 2 and 3 are concerned, in my view, learned Counsel for the petitioners appears to be right in his submission that their cases deserve to be considered with some degree of leniency.

8. Learned counsel for the petitioners has informed that after rejection of their appeal, petitioners No. 1 and 2 had surrendered before the Court below on 18.12.2014 and they were subsequently released on bail by virtue of order dated 12.12.2014 passed by this Court in this case. They thus, have remained in custody from 18.12.2014 till the date of their release on bail by virtue of order dated 12.12.2014 of this Court.

9. Considering the facts and circumstances, the sentence of simple imprisonment in respect of petitioner Nos. 2 and 3 is hereby modified and reduced to the period of custody, which they have already undergone. Accordingly, they are discharged from the liabilities of their bail bonds.

10. In view of what has been discussed above, so far as petitioner No.1 is concerned, he is directed to appear before the

Court below within one month from today for the purpose of serving the remaining period of sentence of simple imprisonment. If he fails to do so, learned Court below shall be required to take all possible steps for securing his custody.

11. It is indicated that so far as payment of fine is concerned, the same shall be paid, if not already paid, within the said period of one month, failing which the said amount shall be liable to be recovered in accordance with Section 357 of the Code of Criminal Procedure, 1973.

12. This application stands disposed of, accordingly.

(Chakradhari Sharan Singh, J)

ArunKumar/-c

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