

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.118 of 2015

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1. Rawan Yadav s/o Sri Bhikhari Yadav resident of village - Sondiha, P.S. -
Shambhuganj, District - Banka.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kundan Kumar Singh

For the Respondent/s : Mrs. Shahin Begum(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 10-11-2016 This application under Section 397 read with Section 401
of the Code of Criminal Procedure, 1973 (hereinafter referred to as
the **Cr.P.C**) has been filed against the judgment and order, dated
16.12.2014, passed in Cr. Appeal No. 27 of 2014 by learned 3rd
Additional Sessions Judge, Banka, affirming judgment of
conviction recorded by learned Sub Divisional Judicial Magistrate,
Banka in Trial No. 2436 of 2014.

2. Learned appellate Court has upheld the order of
sentence also passed by learned trial Court, consequent upon
conviction of the petitioner.

3. Learned Sub Divisional Judicial Magistrate, Banka by
his judgment and order, dated 28.02.2014, has recorded conviction
of the petitioner of an offence punishable under Section 498A of



the Indian Penal Code and has sentenced him to undergo rigorous imprisonment for two years and fine of Rs. 10,000/-(ten thousand) with a stipulation that in the event of default of payment of fine, the petitioner shall undergo imprisonment for further period of three months. The trial Court has further ordered for payment of half of the fine to the victim.

4. There were two other accused persons, who also stood charged for the same offence in the said trial but they have been acquitted by the learned trial Court.

5. There being concurrent findings of fact recorded by the Courts below leading to conviction of the petitioner for an offence under Section 498A of the Indian Penal Code, the same cannot be disturbed by this Court in revisional jurisdiction in the absence of any ground available that the said finding(s) is/are perverse being without evidence or contrary to evidence.

6. Learned Counsel appearing on behalf of the petitioner has not been able to make out a case that this is an exceptional circumstance where because of complete lack of evidence, the concurrent findings recorded by the Courts below can be held to be perverse. I am, therefore, not inclined to interfere with the judgments of conviction of the petitioner.

7. Learned counsel for the petitioner has, however,



submitted that matrimonial discord between the petitioner and Opposite party No.2 is the background in which the criminal case against the petitioner came to be instituted, which finally led to his conviction of an offence punishable under Section 498A of the Indian Penal Code. He has no criminal antecedent and a lenient view needs to be taken, according to him, in the matter of imposition of sentence. It appears that the petitioner was taken into custody on 02.01.2015 upon rejection of his appeal by the learned Additional Sessions Judge and remained in custody till he came to be released on bail by virtue of an order of this Court, dated 02.04.2015. In the present case the petitioner has thus, remained in custody for slightly more than three months.

8. Learned counsel for the Opposite party No.2 has vehemently argued that considering the conduct of the petitioner, which has resulted into his conviction of an offence under Section 498A of the Indian Penal Code, the sentence as awarded by learned trial Court cannot be said to be harsh or disproportionate.

9. Considering the submission and counter submissions so advanced on behalf of the parties and the facts and circumstances in its entirety, in my opinion, the sentence of imprisonment needs to be modified, which I do by reducing it to the period of custody already undergone by him.

10. The petitioner is directed to deposit the amount of fine within a period of one month from today, failing which it will have the same consequence as recorded by the learned trial Court in its judgment and order.

11. The petitioner, accordingly, stands discharged from the liability of bail bonds and sureties furnished by him before the trial Court.

12. This application stands disposed of with the modification as noted above.

(Chakradhari Sharan Singh, J)

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