

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.978 of 2016

Arising Out of PS.Case No. -74 Year- 2015 Thana -MAHILA P.S. District- SAHARSA

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Randhir Yadav @ Randhir Kumar Yadav Son of Sukumar Yadav Resident of
Village- Parsaha, Police Station Saharsa, District Saharsa.

.... Appellant

Versus

1. The State of Bihar.
2. Kanchan Devi Daughter of Late Sahdeo Ram resident of Village- Ajgaiwa
Police Station Saur Bazar District Saharsa.

.... Respondents

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Appearance :

For the Appellant : Mr. Satish Kumar Singh, Adv.
Mr. Dinesh Maharaj, Adv.

For the Respondents : Mr. Sadanand Paswan, Special P.P.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL JUDGMENT

Date: 15-12-2016

1. Heard learned counsel for the appellant as well as
learned Special Public Prosecutor for the State.

2. The appellant has preferred this criminal appeal under
Section 14(A)(2) of S.C./S.T. (Prevention of Atrocities) Amendment
Act because the impugned order dated 02.09.2016 passed by learned
1st Additional Sessions Judge, Saharsa in B.P. No. 566 of 2016 by
which and whereunder he refused to enlarge the appellant on bail who
was made accused in Mahila Thana (Saharsa) P.S. Case No. 74 of
2015 for the offences punishable under Sections 498(A), 323, 420/34,
376/354 of the Indian Penal Code, Section 3(i) (x) (xii) of S.C./S.T.



(Prevention of Atrocities) Act as well as Section 34 of D.P. Act.

3. The brief fact which gives rise to file this criminal appeal is that respondent no. 2 gave written report to officer in charge of Mahila Thana (Saharsa) police station mentioning therein that the appellant solemnized his marriage with her in a temple concealing his caste and subsequently, established physical relation with her. She further alleged that she was residing at her natal place along with her mother and on 23.10.2015 when she along with her mother came at the house of the appellant, the appellant refused to recognize her as his wife and assaulted her as well as her mother.

4. It would appear from the record that after investigation, police submitted charge sheet and the learned Judicial Magistrate 1st Class took cognizance for the offences punishable under Sections 498(A), 323/34 of the Indian Penal Code and Section 3 (XI) (XII) of S.C./S.T. (Prevention of Atrocities) Act. The appellant voluntarily surrendered before the court below and sent to judicial custody on 11.07.2016 and since then he is languishing in jail custody.

5. Learned counsel appearing for the appellant challenged the impugned order arguing that no case under Section 3 (XI) (XII) of S.C./S.T. (Prevention of Atrocities) Act is made out and even if the prosecution story assumed to be true then also, at best, it is



a case of Sections 498(A), 323/34 of the Indian Penal Code for which the appellant has sufficiently been punished by remaining in jail custody for such a long period.

6. Although, learned Special Public Prosecutor appearing for the State opposed the prayer but considering the aforesaid submissions as well as facts and circumstances of the case, this criminal appeal is allowed and impugned order dated 02.09.2016 passed by learned 1st Additional Sessions Judge, Saharsa is set aside.

7. Accordingly, the above named appellant is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri Lalan Jee, Judicial Magistrate, Saharsa in connection with Mahila Thana (Saharsa) P.S. Case No. 74 of 2015.

(Hemant Kumar Srivastava, J)

SHAHZAD/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.12.2016
Transmission Date	20.12.2016

