

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.526 of 2016

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

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1. Rabindra Prasad Son of Navbalak Prasad Resident of the village - Hussainganj ,
P.S. Bankey Bazar at District – Gaya Petitioner/s

Versus

1. The State of Bihar.

2. Bina Devi W/o Rabindra Prasad and D/o Ram Nandan Prasad Resident of the
village - Mauza - Hussainganj, P.S. Bankey Bazar, at District - Gaya at present
resident of the village - Kashidih, P.S. Amas at District - Gaya.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate
Mr. Vijay Kumar, Advocate
Mr. Ajay Kumar Sinha, Advocate

For the Respondent/s : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 24-11-2016

This criminal revision application, under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, has been preferred against the judgment and order, dated 22.09.2015, passed, by learned Sessions Judge, Gaya, in Criminal Appeal No. 72 of 2014, whereby he has upheld the judgment of conviction of the petitioner of the offence punishable under Section 498A of the Indian Penal Code and sentence of imprisonment for a period of two years and a fine of Rs. 1,000/-, as recorded by the learned Sub Divisional Judicial Magistrate, Sherghati, Gaya, in Trial No. 356 of 2014, arising out of Complaint Case No. 456 of 2006.

2. The petitioner is the husband of the

complainant/Opposite Party No. 2.

3. Heard learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the State.

4. Learned Counsel for the petitioner has submitted that the petitioner is in custody since 23.04.2016 after dismissal of appeal by the impugned judgment and order, dated 22.09.2015, passed in Criminal Appeal No. 72 of 2014. He has submitted that the finding of conviction recorded by the Courts below is not, at all, sustainable in the absence of adequate evidence adduced at the trial to establish the charge of commission of offence punishable under Section 498A of the Indian Penal Code.

5. There are two reasons why I do not intend to go into the correctness of the findings of facts recorded by the Courts below, leading to conviction of the petitioner of offence punishable under Section 498A of the Indian Penal Code. Firstly, the concurrent findings of facts recorded by the Courts below should be interfered with in revisional jurisdiction only in exceptional circumstances when the findings are perverse. On perusal of the judgment and order of the Courts below, in my view, the findings cannot be said to be perverse.

6. Secondly, it appears that arising out of the same trial, in which some family members of the petitioner had filed

criminal revision application before this Court, giving rise to Criminal Revision No. 991 of 2015. This Court, by order, dated 08.02.2016, passed in the said case, has refused to interfere with the conviction.

7. So far as the sentence is concerned, learned Counsel for the petitioner has submitted that matrimonial discord between the petitioner and the Opposite Party No. 2 is the reason behind institution of the criminal case, which finally culminated into his conviction and conviction of other members of his family. He accordingly submits that in such circumstance, the sentence is on a higher side.

8. Considering the above submission and the order of this Court, passed in Criminal Revision No. 991 of 2015, the sentence of imprisonment is modified and reduced to period of custody already undergone by the petitioner.

9. Let the petitioner be released forthwith, if not wanted in any other case.

10. This application is, accordingly disposed of.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.11.2016
Transmission Date	25.11.2016