

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.29 of 2016

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Nishat Parween, Wife of Shahezaman Bakhta, Daughter of Md. Hakim, Resident of Mohalla - Aliganj, Road No. 13, P.S. Chandaoti, District - Gaya.

.... Appellant/s

Versus

1. Md. Shahzaman Bakhta @ Shahzaman Bakhta, Son of Sardar Bakhta
 2. Sardar Bakhta, Son of not known to the appellant
 3. Shahmima Khatoon @ Shahmima Khatoon, Wife of Sardar Bakhta
 4. Siya Bakhta, Son of Sardar Bakhta.
- All residents of village - Solara, P.S. Paraiyya, District Gaya at Present Mohalla - Millat Colony, Near Quasmi Middle School, P.S. Civil Lines, District Gaya.
5. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shakib Ayaz, Adv.

For the Respondent/s : Mr. Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 16-01-2017

The present application, under Section 378(4) of the Code of Criminal Procedure, for leave to file an appeal,



has been preferred against the judgment and order, dated 16.04.2016, passed by the learned Sub-Divisional Judicial Magistrate, Gaya, in Complaint Case No. 735 of 2008, Trial Nos. 1631 of 2008 and 490 of 2016, whereby, learned court below has recorded acquittal of opposite party Nos. 1 to 4 of the charges for commission of offences punishable under Sections 323 and 498(A) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

2. This application is barred by limitation and an application has been filed, being I.A. No. 2404 of 2016, for condoning the delay. However, I have heard learned counsel, appearing on behalf of the petitioner, on merits.

3. I have perused the impugned judgment and order, dated 16.04.2016, other materials available on the record and have also considered the submissions advanced on behalf of the petitioner.

4. It transpires from the impugned judgment and order, under challenge, that though the complaint petition contained allegation of demand of dowry and torture, neither any specific date was given as to when the dowry was demanded and torture was meted out except 10.01.2008, when the complainant is said to have been thrown out of her matrimonial home. It also transpires that the evidence did not suggest as to the person/persons, who have made such



demand.

5. Considering these aspects and the fact that the learned court below accepted the plea of alibi taken on behalf of the respondent, who was on duty far from the place of occurrence on 10.01.2008, learned trial Court reached the conclusion that the prosecution could not establish the charge against the opposite parties beyond all reasonable doubt.

6. Learned counsel, appearing on behalf of the petitioner, has attempted to convince me that at the trial, the witnesses were consistent in their evidence that the dowry was demanded and, therefore, according to him, acquittal of the opposite parties is illegal and the judgment and order impugned is perverse.

7. I do not find any substance in the submissions so advanced on behalf of the petitioner. It is not the case of the petitioner that the evidence of the witnesses have been wrongly described by the learned court below in the judgment and order sought to be challenged. It is evident that no specific date was ever mentioned when the dowry was demanded or torture was allegedly meted out to the petitioner. In such circumstance, I do not find that the petitioner has been able to make out a case for granted of leave to prefer an appeal against the impugned judgment



and order dated 16.04.2016.

8. This petition is, accordingly, dismissed.

9. I.A. No. 2404 of 2016 also stands dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.01.2017
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