

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.833 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Rajesh Kumar @ Rajesh Yadav, Son of Arjun Yadav
2. Arjun Yadav @ Arjun Prasad, Son of Faujdari Yadav
3. Suresh Yadav @ Suresh Prasad, Son of Arjun Yadav
4. Umesh Yadav Son of Tuntun Yadav
All residents of village - Chandasi, Police Station Noor Sarai, District - Nalanda
..... Petitioner/s

Versus

1. The State of Bihar
2. Renu Devi, Wife of Rajesh Kumar, resident of village - Chandasi, Police
Station Noor Sarai, District - Nalanda
..... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the petitioners and learned
counsel for the State.

2. Petitioners, being aggrieved by the judgment of
conviction and order of sentence dated 13.05.2016 passed by the
learned Additional Sessions Judge-7th, Nalanda at Biharsharif in Cr.
Appeal No. 99 of 2008, whereby affirmed the conviction and sentence
dated 28.07.2008 passed by the S.D.J.M., Nalanda at Biharsharif in
complaint Case No. 310(C) of 2004, have preferred this revision
application. The trial court convicting the petitioners, under Section
498A of IPC, sentenced them to undergo rigorous imprisonment for
one year and to pay a fine of Rs. 1000/- each and in case of default of



making payment of fine, to further undergo simple imprisonment for one month each with a direction that the period already undergone in custody shall be set off.

3. Learned counsel of the petitioners submits that the prosecution has failed to prove any injury sustained by the complainant, as she alleged of being assaulted and tortured by the accused persons. Further alternative argument by the learned counsel for the petitioners is that both the courts below have not given the benefit of Section 360 of the Cr.P.C.; moreover the alleged offence is of the year 1998, almost two decades have passed, so period of sentence may be modified.

4. Contrary to that, learned counsel for the State submits that there is no major contradiction in the evidence of the prosecution to disbelieve the case of the prosecution rather have proved the charge beyond all reasonable doubts and the court has already taken lenient view in awarding sentence, as the maximum sentence is for three years but the trial court has awarded sentence of only one year rigorous imprisonment.

5. Having considered the rival submissions and on perusal of record, the Court does not find any miscarriage of justice being done in the concurrent findings of the trial court as well as the appellate court. It is not the case of the complainant that she sustained



injury requiring medical intervention for treatment by the doctor, so there is no question of bringing on record in evidence any medical report of the doctor hence, on this score, the prosecution case cannot be disbelieved.

6. Moreover, cruelty is of two kinds, mental as well as physical in case of doing harassment to the wife to coerce her or any person related to her to meet further demand of dowry asking for any property or valuable security or on account of failure to meet such demand. There is no error in concurrent finding of committing cruelty for coercing the complainant to bring more in dowry. However, as this occurrence took place approximately 20 years back, so maintaining the conviction of the petitioners, only sentence is modified from the period of one year to six months.

7. Accordingly, with this modification in the sentence, the application stands disposed of.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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