

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.199 of 2015

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1. Akhileshwar Prasad @ Akhilesh Prasad Son of Late Kailash Prasad, R/o-
Mohalla- Bibiganj, Gaura Inda, P.S.- Sadar, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

For the Respondent/s : Dr. Indihar Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL JUDGMENT AND ORDER

4 25-07-2017 Heard learned counsel for the parties.

2. The petitioner stood convicted of the offence punishable under Section 498A of the Indian Penal Code and sentenced to rigorous imprisonment for a term of two years and a fine of Rs. 2,000/-. He was also convicted of the offence punishable under Section 494 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years with a fine of Rs. 2,000/-. The said conviction came to be recorded by the Judicial Magistrate First Class, Muzaffarpur, in Trial No. 39 of 2001, in his judgment and order, dated 12.09.2001. The petitioner preferred appeal against the said order of conviction, leading to registration of Criminal Appeal No. 123 of 2001. Learned First Additional Sessions Judge, Muzaffarpur has confirmed the petitioner's



conviction of offence punishable under Section 498A of the Indian Penal Code but has acquitted him of the offence punishable under Section 494 of the Indian Penal Code. Secondly, the petitioner's conviction under Section 498A and sentenced to undergo rigorous imprisonment for a period of two years and a fine of Rs. 2,000/- stand after passing of the impugned appellate order, dated 02.02.2015. The said judgment and order, dated 02.02.2015 is under challenge, in the present criminal revision application.

3. Learned counsel appearing on behalf of the petitioner at the very outset, has submitted that at this stage the petitioner does not intend to assail the findings of the conviction concurrently recorded by the two Courts below. He has, however, submitted that considering the long pendency of the criminal case for nearly 23 years, this Court may consider reducing the period of sentence to the period of custody, which the petitioner has already undergone.

4. What has emerged from the materials on record is that the petitioner and Opposite party No.2 were married in the year 1977. The dispute having arisen between them, the First Information Report was lodged in the year 1994. Conviction came to be recorded in the year 2001.

5. In my opinion, there are other mitigating circumstances



also for considering the petitioner's submission for reducing the term of sentence to the period of custody, which the petitioner has already undergone.

6. Learned counsel for the petitioner has drawn my attention to the judgment and order passed by learned Principal Judge, Family Court, Muzaffarpur in Matrimonial (Divorce) Case No. 23 of 2003, which was duly contested by the Opposite party No.2, whereby the Court below has granted decree of divorce on the ground of desertion.

7. Taking a holistic view of the matter and considering the entire facts and circumstances, while not interfering with the findings recorded by the Courts below, in view of what has been submitted by the petitioner, the period of sentence of imprisonment is reduced to the period of custody, which the petitioner has already undergone for a term of three years as awarded by the Court below.

8. This application stands disposed of.

(Chakradhari Sharan Singh, J)

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