

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1098 of 2016

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1. Jamil Khan
2. Kallu Khan
3. Guljar Khan
all sons of Late Allauddin Khan All residents of village Muzafara, P.S.
Barauni (Birpur), District Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Sinha

For the Respondent/s : Mr. Madan Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

6 14-07-2017 Heard learned Counsel for the petitioners and
learned Additional Public Prosecutor representing the State.

The petitioner is aggrieved by the judgment and order, dated 14.06.2016, passed, by learned Additional Sessions Judge II, Begusarai, in Criminal Appeal No. 109 of 2001, whereby he has affirmed the judgment and order, dated 19.09.2001, passed by learned Judicial Magistrate, 1st Class, Begusarai, in G. R. Case No. 1182 of 1995, Trial No. 880 of 2001, arising out of Barauni (Birpur) Police Station Case No. 170 of 1995.

The learned Trial Court, while recording conviction of the petitioners, under Section 498A of the Indian Penal Code, sentenced them to undergo simple imprisonment for a term of two years with a fine of Rs.



500/-, and in default, to undergo simple imprisonment for further term of one month.

The petitioner no. 1 is the husband of the informant; whereas petitioner nos. 2 and 3 are brothers of petitioner no. 1.

Learned Counsel appearing on behalf of the petitioners has submitted that the finding recorded by the Court below holding the petitioners guilty of offence punishable under Section 498A of the Indian Penal Code is perverse inasmuch as it is based on no cogent evidence. He has submitted that in their deposition, the witnesses have vaguely said about the demand of dowry and torture therefor. According to him, none of the prosecution witnesses gave any specific time, date or place as to when and where the demand of dowry was made and torture was meted out to the informant.

Learned Additional Public Prosecutor appearing on behalf of the State of Bihar has submitted that the case of the prosecution, as narrated in the First Information Report, came to be proved with the evidence of the prosecution witnesses and there is no infirmity in the judgments and orders recording conviction of these petitioners.

The Lower Court's Record is available, which I



have perused.

Learned Counsel appearing on behalf of the petitioners appears to be correct in his submission that there is no concrete evidence adduced on behalf of the prosecution at the trial to establish beyond all reasonable doubts that demand of dowry was made and the informant was put to torture therefor. The depositions are vague and non-specific. There is vague statement that the informant was tortured and dowry was demanded.

In my view, the findings recorded by the learned Courts below, though concurrent, requires interference by this Court, the same being without any substantive evidence.

Accordingly, the judgment of conviction and order of sentence, dated 14.06.2016, passed in Criminal Appeal No. 109 of 2001, is set aside.

The petitioners are on bail by virtue of the order, dated 16.05.2017, passed in this case. They are, accordingly, discharged from the liabilities of the bail bonds furnished before the learned Court below.

This application is allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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