

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.2 of 2017

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Bibi Kalila Wife of Md. Shoib Resident of Village-Murballa, Police Station-Araria, District-Araria

.... Appellant/s

Versus

1. The State of Bihar
2. Bibi Sarian Wife of Md. Kalimuddin
3. Abdul Quaiyum Son of Md. Kalimuddin Both are Resident of Village-Murballa, Police Station-Araria, District-Araria

.... Respondent/s

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Appearance :

For the Petitioner : Mr.Bikramdeo Singh
For the Respondent/s : Mr. Sri Binod Bihari Singh
For the State : Abha Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 04-05-2017 The petitioner is aggrieved by order and judgment dated 29.09.2016 passed by 1st Additional District and Sessions Judge, Araria in Cr. Appeal No. 13 of 2007 whereby he has set aside the judgment of conviction and sentence recorded by the Trial Court, holding the opposite party no.2 guilty of the offence punishable under section 498A of the Indian Penal Code and sentencing him to imprisonment for a period of three years.

I have perused the impugned judgment and order passed by the trial court. The appellate court, upon consideration of evidence brought at the trial has recorded that marriage of petitioner with Shoib could not be established to be as per law. The petitioner never went to her so called in-laws house and



marriage if solemnized was not consented by Shoib and further, signature of Shoib was not found available on Nikahnama which is exhibited. Shoib is said to be traceless from the date of alleged marriage and the same is admitted by the complainant-petitioner also in her evidence. No independent witness has supported the case of the prosecution.

Further finding serious contradiction and testimony of the witnesses the appellate court reversed the finding recorded by the trial court.

The opposite parties are family members of the said Shoib. I do not find any apparent illegality or perversity in the judgment and order of the appellate court. The judgment of acquittal will require interference only if the findings are reversed by the trial or completely perverse. When two views are possible on the basis of evidence adduced at the trial, then one which is favourable to the accused should be accepted unless such findings are perverse.

I do not find any reason to allow this application for leave to appeal. This application is dismissed.

(Chakradhari Sharan Singh, J)

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