

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.788 of 2015

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1. Dewanti Devi, Wife of Subhash Yadav, Resident of Village -
Khagani, P.S. - Gorea Kothi, District - Siwan, at present resident
of Village - Bhopatpur, P.S. - Jamo, District - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Subhash Yadav, Son of Heeralal Yadav, Resident of Village -
Khagani, P.S. - Gorea Kothi, District - Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kr. Pandey, Adv.

For the State : Mr. Kumar Ranjit Ranjan, APP

For the O.P. No. 2 : Mr. Ramchandra Sahni, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 23-01-2017

Opposite party No. 2 is the husband of the
petitioner. By a judgment and order, dated 28.05.2013,
passed by learned Sub-Divisional Judicial Magistrate, Siwan,
in C. No. 79 of 2006/Trial No. 1219 of 2013, opposite party
No. 2 stood convicted of the offence punishable under Section
498A of Indian Penal Code and, accordingly, sentenced to
undergo three (3) years of imprisonment with a fine of Rs.



500/-. On an appeal, preferred by opposite party No. 2, learned Adhoc Addl. District and Sessions Judge-III, Siwan, *vide* order, dated 19.11.2014, passed in Cr. Appeal No. 27 of 2013, has set-aside the said judgment of conviction and order of sentence, dated 28.05.2013, passed by learned Sub-Divisional Judicial Magistrate, Siwan.

2. The petitioner is aggrieved by the said judgment and order, dated 19.11.2014, passed by learned Adhoc Addl. District and Sessions Judge-III, Siwan, in Cr. Appeal No. 27 of 2013, in the present criminal revision application filed under Section 397 read with Section 401 of the Code of Criminal Procedure.

3. I have heard learned counsel for the petitioner, learned counsel appearing on behalf of opposite party No. 2 as well as learned Additional Public Prosecutor representing the State.

4. Learned counsel for the petitioner has submitted that the case of the prosecution was fully proved at the trial by the prosecution witnesses, on the basis of which learned trial Court recorded conviction of opposite party No. 2. He has submitted that learned trial Court without duly appreciating the evidence on record has acquitted opposite party No. 2.

5. Learned counsel appearing on behalf of opposite



party No. 2, has, however, submitted that learned appellate Court rightly reversed the finding of conviction recorded by the trial Court, as the prosecution could not prove the charge of commission of offence under Section 498A of the Indian Penal Code beyond all reasonable doubts.

6. I have perused the judgment and order passed by the learned trial Court as well as the one passed by the learned appellate Court. From the impugned judgment and order passed by the learned trial Court, I find that upon re-appreciation of evidence, adduced at the trial, the appellate Court held that no eye-witness, to the occurrence of torture for dowry, supported the case of the prosecution. No occurrence of torture was referred to in the evidence of the prosecution witnesses. On the basis of same set of evidence, learned trial Court had recorded acquittal of other six co-accused persons, whereas, held opposite party No. 2 guilty of the offence only because he happened to be the husband of the informant.

7. Learned counsel for the petitioner has not been able to point out that there was specific evidence adduced at the trial, giving date, time and nature of torture meted out to the petitioner. The evidence being not clinching and concrete sufficient to arrive at the conclusion that opposite party No. 2 had committed the offence, learned appellate Court recorded



his acquittal.

8. I do not find any legal infirmity, requiring interference by this Court in criminal revisional jurisdiction. The finding recorded by the learned appellate Court cannot be said to be perverse. It is settled principle that if two views are possible, one, which is in favour of the accused, has to be accepted.

9. This criminal revision application has no merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.01.2017
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