

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1012 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- AURANGABAD

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1. Manoj Kumar Son of Late Raj Kumar Ram Resident of Village- Tarari,
Ambadkar Nagar, P.S. Daudnagar, District- Aurangabad.

.... Petitioner

Versus

1. The State of Bihar
2. Lalti Devi, wife of Manoj Kumar, resident of village Ramnagar, Police Station
Khudwan (Obra), District Aurangabad

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Rajendra Kumar Jain
For the State	:	Mr. Amit Kumar Rakesh
For O. P. No. 2	:	Mr. Nawal Kishor Prasad

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

JUDGMENT AND ORDER
ORAL

Date: 23-06-2017

Heard learned Counsel for the petitioner, learned
Counsel representing the Opposite Party No. 2 and learned
Additional Public Prosecutor appearing on behalf of the State
of Bihar.

2. The present application has been filed under
Section 397 read with Section 401 of the Code of Criminal
Procedure, 1973, by the petitioner, who is the husband of the
Opposite Party No. 2, being aggrieved by the judgment and
order, dated 29.06.2016, passed, in Criminal Appeal No. 09 of



2010/101 of 2015, by learned Additional Sessions Judge II, Aurangabad, whereby he has affirmed the judgment of conviction and sentence passed by learned Judicial Magistrate, 1st Class, Daudnagar, Aurangabad, dated 25.03.2010, in Complaint Case No. 474 of 2000 (Trial No. 2323 of 2010).

3. The learned Trial Court, after having convicted the petitioner and two other family members, had sentenced them to undergo imprisonment for a term of two years and a fine of Rs. 2,000/-. The petitioner and other co-convicts preferred Criminal Appeal No. 09 of 2010/101 of 2015, which came to be finally decided by the impugned judgment and order, passed by the learned Additional Sessions Judge II, Aurangabad.

4. It is being submitted on behalf of the petitioner that the findings recorded by the learned Court below, regarding conviction of the petitioner is perverse inasmuch as there is no concrete evidence adduced at the trial to establish that the petitioner had made any demand of dowry and caused torture therefor. It has been submitted that general statement has been made by the prosecution's witnesses in their evidence about the demand of dowry and torture meted out to Opposite Party No. 2, but neither any date nor place has been mentioned in any of the depositions of the witnesses as to when and where the said demand was



made.

5. Learned Counsel appearing on behalf of Opposite Party No. 2, on the other hand, has submitted that all the prosecution's witnesses supported the case of the prosecution, as was narrated in the First Information Report. According to him, the witnesses were consistent in their depositions and, therefore, the learned Trial Court, after having found the case to be proved beyond all reasonable doubt, rightly recorded conviction of the petitioner, which has been duly upheld by the learned Appellate Court, under the impugned judgment and order.

6. Lower Court's Record was called for, which are available. I have perused the Lower Court's Record, including the evidence of the witnesses. On perusal of the evidence of the witnesses, I find that the prosecution witnesses have generally said that a demand of dowry for a sum of Rs. 50,000/- was made and for non-fulfillment of said demand, she was tortured. Neither any date has been mentioned as to when the said demand was made nor any date or time has been disclosed by the prosecution's witnesses as to when she was put to harassment or torture by the petitioner.

7. The finding of conviction based on general statement of witnesses of the nature as noted above, in my



view, is perverse. In the absence of specific assertion on the point of demand of dowry and torture therefor with reference to the date and place, conviction, in my opinion, cannot sustain.

8. In my view, findings recorded by the Court's below are perverse. Accordingly, the impugned judgment and order, dated 29.06.2016, is set aside and the petitioner is acquitted of the charge levelled against him.

9. The petitioner is on bail. He is also discharged from the liabilities of the bail bonds furnished earlier in the case.

10. This application is allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.06.2017
Transmission Date	02.07.2017

