

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 130 of 2006**

- Avatar Singh S/o Guljar Singh Sikh, aged about 28 years, R/o New Shere Punjab Hotel, Dhortalab, P S Baghnadi, Distt. Rajnandgaon (C.G.)

---- Petitioner**Versus**

- State Of Chhattisgarh

---- Respondent

For Applicant	Shri S. C. Verma and Shri Rajat Agrawal, Advocates
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For Respondent	Shri Sameer Behar, PL
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Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****24/07/2017**

1. Applicant would assail the legality and validity of his conviction under Sections 498-A and 323 IPC and sentence of RI for 2 years with fine of Rs.1,000/- and RI for 1 year respectively. In default of payment of fine, the applicant has been directed to undergo additional RI for 3 months.
2. The applicant has allegedly treated his wife PW-3 Shalini Sahi with cruelty in connection with demand of dowry and has also caused simple hurt to her by assaulting her at different point of time. The applicant was married with Shalini Sahi on

12.02.1996 at Nagpur. Thereafter, they came to reside at Village Chirchari, Police Station Bagnadi, District Rajnandgaon on 31.03.1996. The applicant was operating a roadside restaurant (Dhaba) at Bortalab. They stayed happily for about 8-10 days after the marriage, however, thereafter the applicant started demanding Rs.8,000/- to 10,000/- from Shalini Sahi for erecting a shade in his Dhaba. When the wife demonstrated her inability to fulfill the demand, the applicant asked her to bring a fridge from her parents. When this demand was also turned down, the applicant started alleging that she must have illicit relations with others at Nagpur. Shalini was assaulted by hand and fist on 21.05.1996 and was also criminally intimidated by saying that acid would be thrown on her face. It is also alleged that about 2-3 days prior to 21.05.1996, Shalini was brutally assaulted and ousted from the house but somehow she requested and saved her life.

3. In course of trial, the prosecution examined PW-1 Aaskaran (the common landlord), PW-2 Bhanupratap Bohre, PW-3 Shalini Sahi, PW-4 Sulochana, PW-5 Gokul, PW-6 Satyanarayan Mishra, PW-7 Pramod Kumar, PW-8 Dr. Awadesh Kumar Agrawal, PW-9 Thukel and PW-10 Mahesh Kumar Mandavi. The prosecution also proved documentary evidence (Exhibit - P-1 to P-4), which are copies of the FIR, the medical report of the injuries sustained by Shalini, the nazri naksha in the crime detail form and the one prepared by the Patwari.

4. Shri S. C. Verma and Shri Rajat Agrawal, learned counsels for the applicant would submit that the trial Court as well as the Appellate Court have not appreciated the evidence in its true perspective and have recorded perverse finding in respect of the applicant's complicity in the crime. They would submit that the applicant has been falsely implicated, because Shalini was pressurizing the applicant to dispose off the land and hotel and shift to Nagpur, but on refusal by the applicant, she started residing in her parental house at Nagpur and lodged delayed FIR as an afterthought.
5. Per contra, Shri Sameer Behar, learned State counsel would support the impugned judgment on submission that not only the wife and her relatives but even independent witnesses have supported the prosecution case, therefore, in view of the concurrent finding, there is no scope for interference in this criminal revision.
6. I have heard learned counsel for the parties at length and perused the record.
7. PW-1 Aaskaran is the landlord in whose premises the applicant and Shalini used to reside as tenant. He has supported the prosecution case by stating that the applicant used to assault his wife. He would also state that Shalini informed him that the applicant used to demand money. PW-2

Bhanupratap Bohre has registered the FIR as per the information given by Shalini. PW-3 Shalini Sahi is the applicant's wife who lodged the FIR. In her deposition, she would state in detail about the demand of Rs.8,000 – 10,000/- by the applicant; assault when demand was not fulfilled; further demand of a fridge and again assault when this demand was also refused. She would also state that when her mother came to Chirchari, the applicant assaulted her in the presence of her mother. PW-4 Sulochana is Shalini's mother. She has supported the statement made by Shalini. PW-5 Gokul is the maternal uncle of Shalini. He has also supported and affirmed the complaints made by Shalini about the beating given to her by the applicant. PW-6 Satyanarayan Mishra is another maternal uncle of Shalini. He too has supported the prosecution case. PW-7 Pramod Kumar is Shalini's brother. The applicant had assaulted his wife Shalini in the presence of this witness. PW-8 Dr. Awadesh Kumar Agrawal is a tenant of PW-1. Thus, this witness is the immediate neighbor or rather a person residing in the same house where the applicant and Shalini were residing. He has also supported the prosecution case.

8. Both the courts below have concurrently held that the prosecution has fully proved its case against the applicant for offences punishable under Sections 498-A and 323 IPC. Having examined the evidence of witnesses, the document (Annexure-P-2) as also the medical report of the prosecutrix, it

appears, the findings recorded by the courts below are fully borne out from the record and there is no perversity in recording such finding. It is settled law that while exercising revisional jurisdiction under Section 397 read with Section 401 Cr.P.C., the Revisional Court is not entitled to interfere unless the finding recorded by the courts below suffers from grave perversity or is in direct conflict with the settled legal position. I have not found any such illegality or perversity in the impugned order, which would warrant exercise of revisional jurisdiction.

9. There is no substance in the revision application. It deserves to be and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

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