

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 612 of 2001**

The State of Chhattisgarh

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Versus

1. Jagannath alias Panna, Aged about 25 years, S/o. Thanuram Bhargav.

2. Sukhmin, aged about 40 years, W/o. Thanuram Bhargav.

Both R/o. Village Charra, Police Station Kurud, District Dhamtari.

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For Appellant	:	Mr. Anil S Pandey, Govt. Advocate
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For Respondents	:	Mr. R.S. Patel, Advocate
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Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****06.11.2017**

- 1) This appeal is directed against the judgment dated 08.09.2000 passed by Chief Judicial Magistrate, Dhamtari, in Criminal Case No. 1023 of 1992, wherein the trial Court acquitted both the respondents for commission of offence punishable under Section 498-A of the IPC.
- 2) Brief facts of the case are that complainant Ishwari Bai (PW-1) was married to respondent No.1 Jagannath in the year 1989. After two years of marriage, the respondents harassed the complainant on account of unlawful demand of some money and tortured her physically and mentally. Upon the report of the complainant (PW-1), a case was registered against the respondents. After completion of the investigation, charge sheet was filed against the

respondents before the trial Court under Section 498-A of the IPC, to which the respondents did not plead guilty and the trial was conducted and after completion of the trial, the trial Court acquitted both the respondents.

- 3) Counsel for the appellant submits that from the evidence of Ishwari Bai (PW-1) it is established that unlawful demand was made by both the respondents regarding dowry and both the respondents assaulted her and asked her to leave their house. He submits that version of this witness is supported by the version of Lalit (PW-2) who is brother of the complainant, Raghunandan Thakur (PW-3) who is the father of the complainant and Rambai (PW-4) who is the mother of the complainant but the trial Court over looked the factual matrix of the case. Counsel for the applicant further submits that it is stated by Ishwari Bai (PW-1) that mother-in-law assaulted on her abdomen by her leg and that caused swelling on her body and her husband followed his mother for harassing her and the case of the prosecution was established before the trial Court.
- 4) On the other hand, counsel for the respondents submits that there is no evidence of assault and the same is not corroborated by the medical evidence and the statement of the witnesses are contradictory to their previous statement and the ingredients of offence under Section 498-A of the IPC is lacking, therefore, the judgment of the trial Court is just and proper and not liable to be interfered by this Court.

- 5) Ishwari Bai (PW-1) deposed before the trial Court that she was married with Jagannath in the year 1989 and behavior of her in-laws was proper till two years of the marriage. But after two years both the respondents have assaulted him and her mother in law assaulted her abdomen by her legs and harassing and demanding dowry from her. But there is no medical evidence on record to substantiate any injury on the body of Ishwari Bai (PW-1). In her previous statement Ishwari Bai (PW-1) narrated different story that she has been assaulted only on the ground that she was making conversation with the women of neighborhood.
- 6) Lalit (PW-2) deposed that respondents demanded money from his sister and on one occasion respondent No. 1 Jagannath abused his sister in his presence. But the statement of this witness is different from what is stated before the Investigating Officer. In his previous statement he stated that respondents have assaulted Ishwari Bai (PW-1) because she has made conversation with the women of the locality. He further deposed that respondents harassed Ishwari Bai (PW-1) for demand of Rs. 5,000/- but version of this witness is also different from what he has stated before the Investigating Officer. In his previous statement he has stated that the respondents assaulted Ishwari Bai (PW-1) because she was talking with the womens of her neighborhood.
- 7) Rambai (PW-4) is the mother of complainant Ishwari Bai (PW-1) and she deposed that in-laws of Ishwari Bai (PW-1)

demanded Rs. 5,000/- for marriage of her daughter and in failure of fulfillment of demand they assaulted Ishwari Bai (PW-1). But version of this witness is also different from her previous version which she stated before the Investigating Officer. In her previous statement she stated that husband of Ishwari Bai (PW-1) assaulted her because she was talking with the women of neighborhood. All the witnesses have stated different story in different stages and in their previous statement no one has stated that any unlawful demand was made to Ishwari Bai (PW-1) and she has been harassed to meet any such demand.

- 8) To constitute an offence under Section 498-A of the IPC, it is essential that any woman is subjected to cruelty and cruelty is explained in the said section that may be read as under:-
 - (a) Any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health(whether mental or physical) of the woman; or
 - (b) Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.
- 9) In the present case, there is no medical evidence in support of the prosecution case to establish that any injury was found in the body of Ishwari Bai (PW-1). Version of any unlawful demand is exaggerated before the Court because same is not stated during the investigation. The view taken

by the trial Court is one of the possible view and it is settled law that if two views are possible then the view which is in favour of the accused should be preferred. It is not the case where the findings arrived at by the trial Court is perverse of factual matrix. It is also not a case that the trial Court has overlooked legal aspect of the matter. In criminal case no findings can be arrived at by inference and facts should be established by cogent and reliable evidence. It cannot be said that the findings arrived at by the trial Court is perverse or not based on sound principal of law. Accordingly, the appeal being devoid of any substance is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE