

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 446 of 2007

1. Devendra, aged about 33 years, S/o Ramkumar Sahu,
2. Ramkumar, aged about 65 years, S/o Mahraj Deen Sahu,
3. Mathuriya Bai, aged about 62 years, W/o Ramkumar Sahu

All 1 to 3 are Village : Meduka, PS Gaurela, Distt. Bilaspur (CG)

---- Petitioners

Versus

- State Of Chhattisgarh through Police Station Gaurela, Distt. Bilaspur (CG)

---- Respondent

For Petitioners	:	Shri NK Chatterjee, Advocate.
For Respondent/State	:	Smt. Madhunisha Singh, P.L.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

04/05/2017

This revision arises out of the judgment and order dated 23.8.2007 passed by Additional Sessions Judge, Pendra Road, Distt. Bilaspur in Cr.A.No.18/07 affirming the judgment and order dated 21.6.2007 passed by Judicial Magistrate First Class, Pendra Road in Criminal Case No.116/07 whereby the petitioners have been convicted under Section 498A of IPC and sentenced to undergo SI for one year and fine of Rs.100/- with default stipulation.

02. Brief facts of the case are that marriage of complainant Sunita was solemnized with petitioner No.1 Devendra on 28.4.1999, however,

unfortunately on account of some dispute between the couple, they got separated and on 14.1.2001 a written report was lodged by the complainant alleging therein that she is being subjected to cruelty by the petitioners. Based on the said written report, FIR (Ex.P/3) was registered against the petitioners on 14.1.2001 under Section 498A/34 of IPC. After investigation, charge sheet was filed against the petitioners and while framing charge, the trial Court framed charge against them under Section 498A of IPC.

03. So as to hold the accused persons guilty the prosecution examined as many as 6 witnesses in all. Statements of the accused persons were recorded under Section 313 of CrPC in which they denied the circumstances appearing against them and pleaded innocence and false implication. In their defence, they examined two witnesses.

04. The trial Court after hearing counsel for the respective parties and considering the material on record, by the judgment dated 21.6.2007 convicted and sentenced the accused persons as mentioned above, which stood affirmed by the appellate Court in appeal.

05. Counsel for the petitioners submits that he is not pressing this revision on merits and is confining his arguments only to the sentence part thereof. He submits that now petitioner No. 1 is aged about 49 years, petitioner No.2 is 81 years old whereas petitioner No.3 is 78 years old and they have already remained in jail for about one month and fifteen days. Therefore, their sentence may be reduced to the period already undergone by them.

06. On the other hand, State counsel supporting the impugned

judgment has submitted that conviction of the petitioners/accused is strictly in accordance with law and there is no illegality or infirmity in the judgment impugned.

07. Heard counsel for the respective parties and perused the material on record.

08. PW-2 Sunita Sahu, the complainant, has stated that after marriage she was kept well by the petitioners only for about 2-3 months and thereafter, they started demanding dowry and also used to beat her. According to her, in January, 2001 she returned to her parental house and since then is living with her parents and that she lodged a written report ExP/1. She has stated that she wrote a letter to her father regarding demand of dowry being made by the accused persons and when she delivered a male child, the accused persons used to level allegation against her that the said child belongs to someone else. In cross-examination she remained firm and nothing could be elicited from her by the defence to make her statement untrustworthy or doubtful.

09. PW-1 Kanhaiyalal has stated that the accused persons called her one day and informed that Sunita wanted to commit suicide and poured kerosene oil on her. On being asked, Sunita informed him that the accused persons are making false allegation against her and therefore, she does not want to live with them. However, this witness has been declared hostile. PW-3 Gulab Singh, PW-4 Anarkali and PW-5 Munnilal have made almost similar statements as has been made by PW-1. PW-6 PK Bhimte, investigating officer, has duly supported the

prosecution case.

10. DW-1 Rajman and DW-2 Rambhagat, neighbours of the accused persons, have stated that complainant Sunita never informed them about demand of dowry or harassment by the accused persons.

11. Close scrutiny of the evidence makes it clear that the petitioners/accused were harassing the deceased physically as well as mentally in connection with demand of dowry. The said allegation stands proved from the unrebutted evidence of PW-2 Sunita. It has also come in the evidence of the witnesses that the accused persons used to level allegation against the complainant that she is a woman of easy virtue and this itself is a cruelty of gravest degree. The evidence of PW-2 finds due support from the evidence of PW-3 Gulab Singh and PW-4 Anarkali. The trial Court considering the entire facts and circumstances of the case, oral and documentary evidence on record, has convicted the accused persons under Section 498A of IPC and the same has rightly been affirmed by the appellate Court in appeal. This Court finds no reason to interfere with the said findings.

As regards the quantum of sentence, considering the fact that the incident is of the year 2001, by now petitioner No. 1 is 49 years old whereas petitioner No.2 is 81 years old and petitioner No.3 is 78 years old; they have already suffered custodial sentence of about one month and fifteen days, in the opinion of this Court the ends of justice would meet if they are sentenced to the period already undergone by them and are directed to pay additional fine of Rs.2000/- each.

12. In the result, the revision is allowed in part. While maintaining

conviction of the petitioners/accused under Section 498A of IPC, they are sentenced to the period already undergone by them. However, each of them shall pay an additional fine of Rs.2000/-.

Sd/

(Pritinker Diwaker)

Judge

Khan