

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.454 of 2016

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

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Ram Pukar Ram Son of Late Tilsi Ram, Resident of village- Mokimpur, P.S.-
Hulasganj, District- Jehanabad

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner : Mr. Rekha Prasad, Advocate

For the State : Mr. Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

CAV JUDGMENT

Date: 31-01-2018

The petitioner has preferred this criminal revision application against the judgment dated 19.03.2016, passed by learned Additional Sessions Judge-I, Jehanabad in Criminal Appeal No.44 of 2014 whereby he has upheld the conviction and sentence passed by SDJM, Jehanabad in Trial No.122 of 2014, arising out of Complaint Case No.458 of 2014, whereby the petitioner has been convicted under Section 498A of the Indian Penal Code and consequently sentenced him to undergo SI for two years and fine of Rs.5000/- and in case of failure of paying the fine, to further undergo SI of three months.

2. The petitioner is the husband of complainant Radha Devi. The allegation in brief, as made in the complaint, is that the complainant was married ten years back since the filing of the complaint case, means she was married in the year 1994. Her husband



and other family members being not satisfied with the dowry already given by her parents started making further demand of Rs.25,000/- and used to torture her in that connection. In the meanwhile, her husband also solemnized marriage with another girl named Manju Devi thereafter the degree of torture increased they used to stop giving her meal and compelled her to leave the matrimonial house. One day she was badly assaulted. Her mother, brother and uncle came to persuade family members not to commit such torture. The accused did not change their ways, ultimately taking all her jewellerys and other articles driven her out of the matrimonial home.

3. The prosecution side examined four witnesses in this case during trial. Shankar Ram, PW1, the uncle of the complainant, Geeta Devi, PW2, Parvati Devi, PW3, mother of the complainant and complainant herself examined as PW4. No witness was examined by the defence side, only a copy of Complaint Case No.498 of 2004 and copy of the judgment passed in Sessions Trial No.85 of 2006, arising out of the said complaint was marked as Exts. A and B. The case of the defence is that the wife herself did not want to live with the husband and in the year 2004 eloped with one Arjun Yadav and others for which Complaint Case No.498 of 2004 was lodged and the accused persons were put on trial vide Sessions Trial No.85 of 2006. The complaint filed by the husband was subsequent to the present



complaint filed by the wife and in Sessions Trial No.85 of 2006 the accused persons were not found guilty.

4. Learned counsel for the petitioner submits that as no children were born out of the wedlock even after ten years of marriage, so the petitioner married another lady Manju Devi after taking consent of the first wife, the complainant and once the complainant fled away with Arjun Yadav for which he had lodged Complaint Case No.498 of 2004 because she is a lady of questionable character. It is also submitted that both the courts below did not consider the major contradiction in the evidence of prosecution witnesses on the point of demand of dowry, even no particular date, time and manner of committing torture is mentioned in their testimony rather her mother (PW3) has admitted herself that she never went to her daughter's matrimonial home and accused persons never demanded any dowry from her.

5. Contrary to that the learned counsel for the State submits that the witnesses have proved the case, so there is no illegality in the concurrent findings of the courts below.

6. Having considered rival submissions and on perusal of records, the Court finds that there is cogent, reliable and trustworthy evidence on the point of cruelty and harassment done to the complainant by her husband. Shankar Ram, PW1, the uncle of the



complainant has stated in his testimony that after the marriage, Ram Pukar Ram used to make demand of Rs.25,000/- from his wife Radha Devi (PW4), who also supports making further demand by her husband and torture committed by him in that connection. However, it is relevant to note that the complaint case was lodged soon after the second marriage done by her husband who married second time without giving divorce to first wife, the complainant thereafter kicking her out of the matrimonial home. This fact is proved by the complainant (PW4) that she was ousted from the matrimonial home by her husband for not meeting the demand, not only that he married with another woman. The fact of second marriage is admitted in this revision application by making categorical statement in paragraph 11 that the petitioner solemnized second marriage but with consent of the complainant; however in the evidence the complainant, PW4 denies the fact of giving consent for second marriage, so whether the act of the petitioner i.e. solemnizing second marriage during the life time of the first wife and ousting her from the matrimonial home amounts to cruelty or not? Section 498A of the Indian Penal Code reads as such:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purpose of this section,



“cruelty” means—

(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.”

7. The offence under Section 498A of the Indian Penal Code defines offence of committing cruelty to a woman by the husband or relatives of the husband. The cruelty is further explained in the explanation (a) and (b), so in the present case the harassment done to the complainant is not only related to meet unlawful demand of further dowry after the marriage, rather also cruelty committed by ousting her from matrimonial home leaving her as destitute after solemnizing second marriage with another girl. Cruelty is elucidated in part (a) of the explanation of Section 498A of the Indian Penal Code, any willful 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. In Black’s Law dictionary cruelty is defined as the intentional and malicious infliction of mental or physical suffering on a living creature specially a human being so abusive treatment, inhuman



treatment and indignity is also cruelty. Mental cruelty is also a ground for seeking divorce if either of the spouse in course of conduct even not involving actual (violence) creates such anguish that it endangers the life, physical health or mental health of the other spouse. The present case is the example of mental cruelty committed by the husband-petitioner who married with another woman after ten years of marriage without giving divorce to first wife, not only that even ousted her out of the matrimonial home leaving her as a destitute, which certainly causes immense mental agony leading to torture, so the conduct of the husband/petitioner certainly amounts to mental torture to the legally wedded wife especially treating the first wife with indignity after second marriage so badly as she is not only maltreated, starved, abused but ousted from matrimonial home. Not only that the petitioner also after lodging of the present complaint under Section 498A of the Indian Penal Code by wife filed a false case of her elopment with another man leveling nasty allegation, making false imputation to her character alleging her a lady of questionable character but trial court finds the charge not proved due to lack of evidence. Leveling such false allegation to wife in itself is an act of cruelty constituting an offence under Section 498A of the Indian Penal Code, hence in considered opinion the Court does not find any miscarriage of justice done to the petitioner in the concurrent



findings of both the courts below of establishing the charge by the prosecution against the petitioner under Section 498A of the Indian Penal Code. However, the petitioner has remained in custody for more than seven months, so confirming the conviction his period of sentence is modified to the period already undergone.

8. With the modification in sentence, the criminal revision application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
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