

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.752 of 2017

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

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1. Munna Singh, Son of Daroga Singh
2. Daroga Singh, Son of Late Sheo Mangal Singh
3. Dewanti Devi, wife of Daroga Singh
4. Ramesh Singh, Son of Daroga Singh
All are residents of Village - Tehati, Police Station - Marhowrah, District - Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rinku Devi, Daughter of Janardhan Singh, resident of village - Janki Nagar, Police Station - Garkha, District - Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 09-01-2018

Heard learned counsel for the petitioners as well as
learned counsel for the O.P. No. 2.

2. Petitioners have preferred this revision application against the judgment dated 24.04.2017 passed by the 1st Additional Sessions Judge, Saran at Chapra in Cr. Appeal No. 84 of 2015 whereby he affirmed the judgment of conviction and order of sentence dated 02.07.2015 passed by the Judicial Magistrate, 1st Class, Saran at Chapra in Trial No. 552 of 2015 arising out of Complaint Case No. 990 of 2006 whereby all the petitioners, above named, have been convicted under Section 498A of I.P.C. and sentenced to undergo 03



years rigorous imprisonment and to pay a fine of Rs. 1000/- each and in default to payment of fine amount, to further undergo three months of simple imprisonment. However, the appellate court acquitted other co-accused persons namely Babita Devi, Anju Devi and Ranjeet Singh from the charges.

3. Learned counsel for the petitioners submits that even in absence of cogent evidence supporting charge under Section 498A of I.P.C., petitioners no. 2, 3 and 4, being the father-in-law, mother-in-law and elder brother of the husband, have been convicted. Only three witnesses have been examined by the complainant's side and evidence of complainant, examined as PW-2, is the most relevant one. In para-2, she has only deposed regarding making further demand of dowry only by her husband and not others. He submits that only one day of incidence of assault is alleged in the complaint as well as in her deposition and the charge of theft was disbelieved by the trial court. Complainant also admits that all brothers of her husband are engaged in their own different vocations as labourers. Petitioner No. 4 Ramesh Singh is a mason, complainant's husband, petitioner no. 1, Munna Singh, is a Leth machine operator and another brother Ranjeet Singh is a auto rickshaw driver and her father-in-law is also a labourer lived in Assam and earns his livelihood there and this fact is admitted by complainant in para-19 of her cross-examination. So it is evident that



petitioners no. 2 to 4 were living separately at different places and in the evidence, there is no specific allegation of any cruelty committed by these petitioners in connection with demand of further dowry. PW-3 a co-villager admits that never any demand was made in his presence and PW-1 is father of the complainant.

4. Contrary to this, learned counsel appearing on behalf of the O.P. No. 2 submits that there is evidence against all accused persons even PW-3, a co-villager of the accused persons, has also supported the allegation in his deposition.

5. Having considered the rival submissions of both sides and on perusal of record, the Court finds that complaint case was lodged by Rinku Devi, wife of petitioner no. 1, approximately after lapse of four years of marriage with allegation that demand of Rs. 50,000/- cash and a motorcycle were being demanded by the accused persons, this allegation is omnibus and general in nature with respect to all accused persons. It is further alleged that she was tortured because of being a barren lady, could not bear a child, so on 04.05.2006, she was assaulted and kicked out of the matrimonial home, except this particular instance of the alleged occurrence, there is no specific act of cruelty mentioned in the complaint petition. Further, complainant, examined as PW-2, admits in para-2 of her deposition that it was her husband who was making demand of Rs.



50,000/- and motorcycle and jewellery. There is no any injury on the person of the complainant as no such evidence was produced before the court. She also admits that father-in-law lives in Assam and earns his livelihood there. The brothers of her husband are engaged in different vocations.

6. Having gone through the entire prosecution evidence, the Court finds complete absence of positive evidence with regard to specific demand of dowry by the petitioners no. 2 to 4 and of committing specific act of cruelty in that connection. Both the courts below have failed to appreciate the entire evidence in proper perspective, as there is no sufficient evidence to prove the charge under section 498A of I.P.C. against the father-in-law Daroga Singh, mother-in-law Dewanti Devi and brother of her husband, Ramesh Singh, so they are entitled of giving benefit of doubt. Hence, these three petitioners, namely, petitioners no. 2, 3 and 4, are acquitted of charge under Section 498A of I.P.C. Since all the three are on bail, therefore, they are also discharged from the liabilities of their respective bail bonds.

7. As far as the case of the husband, Munna Singh, petitioner no. 1 is concerned, prosecution has been able to prove the case against him beyond all reasonable doubt. The complainant, examined as PW-2 and her father examined as PW-1, have proved the



charge under Section 498A of I.P.C. by cogent evidence that petitioner no. 1 used to make further demand of fifty thousand and a motorcycle and coerced her to ask from her parents to meet the illegal demand of further dowry coupled with torturing her by taunting her as barren lady for not bearing a child. Therefore, there is no error in the concurrent finding of conviction of the petitioner no. 1. However, his period of sentence is reduced from three years rigorous imprisonment to one and half years and directed to pay a fine of Rs. 1000/- and in case of failure to pay the fine amount, to further undergo one months of simple imprisonment.

8. Accordingly, this application is partly allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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