

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1188 of 2017

Arising Out of PS. Case No.-1037 Year-2010 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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Rajdev Chouhan @ Rajdeo Chouhan, Son of Nandlal Chouhan, Resident of
Village- Bariyarpur, P.S.- Pakribarawan, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rachna Devi, D/O Dindayal Chouhan, Resident of Village – Menhdipura,
P.S. Pakribarawan, District – Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad

For the Respondent/s : Mr. SRI VINOD SHANKAR MODI

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 20-02-2018

With consent of the parties, the present revision petition has
been heard finally.

2. The petitioner was convicted by the learned Sub-Divisional
judicial Magistrate, Nawada vide judgment dated 01.07.2015
passed in Complaint Case No. 1037 of 2010 (Tr. No. 1127 of
2015) and was sentenced to undergo R.I. for two years, to pay a
fine of Rs. 1000/- under Section 498 A of the Indian Penal Code
and in default of payment of fine to further suffer S.I. for two
months.

3. The aforesaid judgment and order of conviction was
appealed against by the petitioner and the learned appellate court



viz. the learned Sessions Judge, Nawada vide judgment dated 18.09.2017, though upheld the conviction of the petitioner under Section 498 A of the Indian Penal Code but reduced the sentence imposed upon him to a period of six months.

4. The petitioner was married to Radha Devi, (opposite party no. 2) in the year 2006 and at the time of marriage, sufficient gifts by way of dowry was given. However, the relationship between the spouses did not remain cordial and there was a further demand of dowry and consequent harassment and torture for non-fulfillment of the same. Despite the efforts of the family members of Radha Devi to intercede with the accused persons, the situation did not improve and finally on 16.08.2010, as has been alleged, all the accused persons including the petitioner assaulted the opposite party no. 2, divested her of her personal belongings and threw her out of the matrimonial home. Perforce, she had to come back to her parents' house on the same day i.e. 16.08.2010.

5. After cognizance was taken against the petitioner, the case was tried where seven witnesses were examined by the trial court.

6. Surendra Chouhan (C.W. 1) has supported the prosecution version and has given the details of the gifts which were handed over to the petitioner at the time of marriage and the harassment and torture for non-fulfillment of additional dowry. Though, he



did not remember the day, date and month of the second marriage (*Duriragaman*) of his daughter but that by itself, would not discredit his testimony. Similar deposition was given by him in the cross-examination after the charge.

7. Dindayal Chouhan and Dhamanti Devi who have been examined as C.Ws. 2 and 3 have also supported the prosecution version.

8. The opposite party no. 2, who has been examined as C.W. 4, has stated that she was married to the petitioner six years ago and her *Duriragaman* took place only four years ago. She lived in her matrimonial home in a proper way only for 3 – 4 months whereafter the petitioner and others harassed her for bringing Rs. 50000/- as additional dowry. She has also stated that the petitioner had illicit relationship with one Sampatia Devi. Lastly, it was deposed by her that she was insinuated for not delivering any baby and was ousted from the house. Out of wedlock, she gave birth to a daughter, who was, at the time of trial, aged about one year. The petitioner is also alleged to have performed another marriage with one Gouri Devi.

9. All the aforesaid witnesses, however, did not give correct information regarding the date and time of the occurrence.

10. However, looking at the depositions of the witnesses in a



holistic manner it appeared to the trial court as well as the appellate court that the offence under Section 498A was squarely made out against the petitioner and hence the trial court convicted and sentenced the petitioner for the aforesaid offence; which conviction was upheld by the appellate court, but the sentence was reduced to a period of six months from the period of two years imposed by the trial court.

11. Section 498A of the Indian Penal Code provides for punishment to the relatives of a woman who is subjected to cruelty. The complainant and other witnesses have supported the prosecution case and by and large, they have come up with consistent and reliable evidence on the issue of cruelty against her. Both the courts took note of the fact that the petitioner had solemnized another marriage with a girl and had also filed a divorce case against the opposite party no. 2, which was dismissed on merits.

12. This Court finds no good reason to interfere with the judgment of conviction passed by both the courts below.

13. Learned counsel for the petitioner has however submitted that the petitioner has, by now, remained in jail for more than five months, which fact is not disputed by the learned counsel appearing for the opposite party no. 2.



14. Considering the aforesaid fact as also taking into account the financial status of the petitioner, who has to feed many mouths, this Court is of the view that the requirements of justice would be met, if the sentence imposed upon the petitioner is reduced to the period of custody which the petitioner has already undergone.

15. Taking into account the whole set of facts, the judgment of both the courts below are affirmed and upheld, but the sentence imposed upon the petitioner is reduced to the period of custody which he had already undergone.

16. The revision petition is partially allowed.

17. If the petitioner is not wanted in any other case, he be released forthwith from jail.

18. A copy of the judgment be communicated to the superintendent of the concerned jail for information, compliance and record.

(Ashutosh Kumar, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
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