

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 379 of 2005

Order reserved on 23.10.2018

Order pronounced on 29.10.2018

Sanjit @ Tuttul Pande S/o Late Sachin Pande, aged about 35 years, Resident of Village Paduwa, P.S. Paduwa, District - Koraput, Orissa.

---- Applicant

Versus

1. Smt. Nirmala Pande, W/o Sanjit @ Tuttul Pande R/o Shanti Nagar, Bangli Camp, Kirandul, P.S. Kirandul, District - Chhattisgarh.
2. State of Chhattisgarh

---- Respondents

For Applicant : Shri H.S. Ahluwalia, Advocate

For Respondent No. 1. : None

For State/ Respondent No. 2.: Ms. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

The accused / applicant has preferred this revision petition against the judgment of conviction and order of sentence dated 31.08.2005 passed by Additional Sessions Judge, South Bastar (Dantewada) in Criminal Appeal No. 09/2004 affirming the judgment dated 29.11.2004 passed by Chief Judicial Magistrate Dantewada in Criminal Case No. 115/2000 convicting the accused/applicant u/s 498-A IPC and sentencing him to undergo RI for two years with fine of Rs. 500/-, plus default stipulation.

2. Applicant and respondent No. 1 are husband and wife. The facts in short are that respondent No.1/wife made a complaint against the applicant/husband regarding his cruel treatment towards her for not bringing sufficient items in marriage. She also alleged that the accused/applicant did not show any interest in her and used to taunt her on trivial matters. The

accused/applicant is also alleged to have harassed her for not bringing color TV and amount of Rs. 50,000/- from her parents.

3. On being satisfied with the averments of the parties and evidence on record the trial Court convicted and sentenced the accused/applicant as mentioned above. The findings recorded by the trial Court have been affirmed by the lower appellate Court by the Judgment impugned, and it is that which is under challenge in this revision.

4. Learned counsel for the accused/applicant submits that he is not pressing this revision on merits and would confine his argument to the sentence part of the judgment impugned assailed therein. According to him, as the incident had taken place in the year 1998, and that he has already remained in jail for a period of 07 days, no useful purpose would be served in again sending him to jail, and therefore, the sentence imposed upon him may be reduced to the period already undergone by him.

5. State counsel however, supports the findings recorded by both the Courts below.

6. Heard counsel for the parties and perused the material on records.

7. Though counsel for the accused/applicant is not inclined to press conviction of the accused/applicant, this Court thinks it appropriate to refer to the evidence of the witnesses to ascertain his guilt or innocence and therefore, it proceeds to do so.

8. Complaint PW-1 has stated that the her husband (the applicant herein) never treated her as his wife and always used to taunt her saying that he would keep her only if she gets Rs. 50,000/-, a colour TV and other household item from her parents. According to her, the applicant had also told her to marry some other woman if she did not obey his words. Apart from the applicant, her brother-in-law and sister-in-law also used to ill-treat her. She has further given several instances of her harassment at the hands of her husband and the in-laws. The applicant, according to this witness, also used to beat her. Suresh Kumar Nayak PW-2 has also stated that he was told by the complainant about being subjected to cruelty by the applicant and her relatives for bringing insufficient dowry. Anant Bar PW-3 has also stated that some days

after her marriage, the complainant had made a complaint to Jila Parisad Office regarding cruel treatment by the applicant and his relatives for which a meeting was also convened. This witness has further stated that the applicant also used to harass the complainant demanding cash amount and colour TV, or else he would not keep her. Almost similar statement has been made by PW-4 & PW-5 also wherein it is mentioned that the complainant was subjected to cruelty by the applicant for demanding several items including cash from her parents.

9. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court is of the opinion that both the Courts below have been quite justified in holding the accused/applicant guilty under Section 498-A IPC and being so, the same is hereby maintained.

10. As regards sentence, keeping in view the fact that the incident had taken place about 20 years back and the applicant has already remained in jail for a period of 07 days, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him. However, the sentence of fine imposed by the Court below is enhanced to Rs. 3,000/- from that of Rs. 500/-. Let the entire fine amount be deposited by the accused/applicant in the trial court within a period of three months from today by adjusting the amount of fine already deposited, if any.

11. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

(Vimla Singh Kapoor)

Judge