

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 825 of 2008

1. Vijay Kumar And Ors. R/o Kanpa, P.S. Tumgaon, Tahsil And Distt.-Mahasamund CG
2. Sukhdeo S/o Hanuman Soni R/o Kanpa, P.S. Tumgaon, Tahsil And Distt.-Mahasamund CG
3. Rajkumar S/o Jagatram Soni R/o Kanpa, P.S. Tumgaon, Tahsil And Distt.-Mahasamund CG

---- Applicants

Versus

- State Of Chhattisgarh Through District Magistrate, Mahasamund, Distt.-Mahasamund CG

---- Respondent

For Applicants	: Smt. Indira Tripathi, Advocate
For Respondent/State	: Shri Garry Mukhopadhyay, Dy. GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

13/12/2018

The present revision arises out of the impugned order and judgment dated 22.12.2008 passed by the Sessions Judge, Mahasamund in Cr. Appeal No. 116/2008, whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate first Class, district Mahasamund vide its judgment dated 09.09.2008 in Cr. Case No. 74/2005 for the offence under Sections 498-A IPC and Section 4 of the Dowry Prohibition Act and sentenced him to undergo RI for two years and to pay fine of Rs. 500/- and RI for one year and fine of Rs. 300/- plus default stipulations.

2. As per prosecution case, complainant was married with the applicant No.1 Vijay as per Hindu custom on 05.05.2005. It is stated that after marriage, the husband of the complainant used to torture upon her at different times and used to create pressure upon her demanding further for motorcycle for which she left her husband's house on 25.06.05, and since then she is staying with her father. Further case of the prosecution is that report was lodged by the complainant at police station Tumgaon against the applicants. After investigation charge sheet was filed against the applicants and accordingly charges were framed.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 10 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded their innocence and false implication in the case.

2. After hearing the parties, vide impugned judgment and order dated 09.09.08, learned Magistrate has convicted the accused/applicants for the offence under Section 498 IPC and Section 4 of the Dowry Prohibition Act and sentenced to undergo RI for two years with fine of Rs. 500/- and RI for 1 year with fine of Rs. 300/- respectively, with default stipulation. This order was appealed by the applicants and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicants. Hence, the present revision.

3. Heard counsel for the parties and perused the material on record including the impugned judgment.

4. Counsel for the applicants submits that she is not pressing the revision as far as it relates to the conviction part of the judgment and would confine her argument to the sentence part thereof only. According to her, the incident is said to have taken place in the year 2005 and thereby more than 14 years have rolled by since then, they are now aged more than 50 years, the applicants have already remained in jail for about six months, no useful purpose would be served in again sending them to jail, therefore it would be in the interest of justice if the sentence imposed on them is reduced to the period already undergone by them. To this, counsel for the State has no serious objection.

5. In view of above, the fact that the incident had taken place in the year 2005 and further that the applicants have already remained in jail for about six months, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicants are reported to have remained in jail for a period of six months, their sentence is reduced to the period already undergone by them.

6. Revision thus partly succeeds.

Sd/-

(Rajani Dubey)
Judge