

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 23.10.2018

Order delivered on 27.11.2018

CRR No. 42 of 2005

Smt. Sangeeta Bai Nishad W/o Manoj Kumar Nishad, aged about 19 years, resident of Gandai Kopaibhata, Tehsil/District Rajnandgaon, CG

--- Petitioner

Versus

1. Manoj Kumar son of Dukharam Nishad, aged about 25 years
 2. Ramesh Kumar son of Dukharam Nishad, aged about 20 years
 3. Dukharam son of Rajaram Nishad, aged about 45 years
 4. Sukliya Bai W/o Dukharam Nishad, aged about 40 years
 5. Mithila Bai W/o Ramesh Nishad, aged about 19 years
- All resident of Badhiyatola, PS Dongargarh, District Rajnandgaon, CG
6. State of Chhattisgarh

--- Respondents

For Applicant	-	Shri Jitendra Shukla, Advocate.
For Respondents 1 to 5-		Shri B.P. Singh, Advocate
For Respondent No.6	-	Smt. M. Asha, PL

Hon'ble Smt. Vimla Singh Kapoor, J.

CAV Order

This revision is by the complainant/petitioner against the judgment dated 27.11.2004 passed by Chief Judicial Magistrate, Khairagarh, District Rajnandgaon in Criminal Case No. 868/2002 acquitting accused/respondents 1 to 5 of the charge under Section 498-A IPC.

2. Respondents/accused namely Manoj Kumar, Ramesh Kumar, Dukharam, Sukliyabai and Mithilabai are the husband, brother-in-law, father-in-law, mother-in-law and sister-in-law of the petitioner/complainant respectively. The allegation made by the petitioner/complainant herein is that some time after marriage, the respondents/accused started harassing her for bringing less dowry and while doing this they had even deprived her of food and clothing in spite of the fact that at the time of marriage sufficient household items were given by her parents. Further allegation made by her is that after the birth of daughter out of the wedlock, the respondents/accused drove her out of the house asking her to bring cash of Rs. 70,000/-, Hero Honda motorcycle, colour TV, Almirah and Cooler. For this, she complained the matter to Police Station Gandai and Dongargarh and when no action was taken thereon, she also made a complaint to Superintendent of Police, Rajnandgaon and ultimately on his directions a case was registered and the investigation was put in motion entailing the filing of charge-sheet.

3. Court below, on consideration of the material before it, did not find any force in the case put forth by the petitioner/complainant and thus acquitted the respondents/accused of the charge under Section 498-A IPC. Hence this revision by the petitioner/complainant.

4. Counsel for the petitioner/complainant submits that in spite of sufficient material including the statement of the complainant showing her harassment at the hands of the respondents/accused,

much less the deprivation of food and clothing and then causing her ouster from the house when she could not fulfill their demand, the Court below has taken an erroneous view in recording a finding of acquittal in their favour. While challenging their acquittal, the petitioner/complainant has also prayed for holding the respondents/accused guilty under Section 498-A IPC and then imposing a harsher sentence on them.

5. On the other hand, counsel for respondents/accused supports the judgment impugned and submits that the allegations made by the petitioner/complainant are fabricated ones, and in fact, no such demand of dowry was made by any of the respondents/accused nor did anyone ever harassed her as alleged.

6. State counsel also assisted the Court in the course of argument.

7. Heard the arguments of the counsel for the parties and analyzed the material with greater care.

8. Though from the evidence of complainant (PW-1) it is not clear as to how many years after marriage the ill-treatment or harassment started to her at the hands of the accused/respondents yet the evidence of her mother Kamla Bai (PW-2) shows that up-till two years nothing of this sort had taken place and she lived happily in her matrimonial home happily. Furthermore, this Court does not find any force in the allegation of the complainant that the respondents/accused deprived her of food and clothing and even drove her out of their house. On the contrary, the evidence of the complainant herself indicates that when she fell ill during her

pregnancy, her husband had taken her to the maternal house where she lived till delivery. It is pertinent to mention here that the complainant first made an application for maintenance and about a month thereafter the complaint for cruelty and harassment was made against the respondents/accused. This also stands against her for the reason that had she really been subjected to ill-treatment, the first step to be taken in the normal course would have been the report to the police. The record further shows that in the same house her cousin Mithila Bai (respondent/accused No.5) was also married to her brother-in-law Ramesh Kumar (respondent/accused No.2) but she is living there happily which indicates that if the respondents/accused were really harassing the complainant herein for dowry, she (Mithila Bai) too must have been given the similar treatment by them, but nothing like that is spelled out from the record. In addition to all this, though the complainant has stated that to set the dispute at rest a village meeting was convened yet none of the witnesses has supported this fact. Not even a single participant of the meeting has been examined by the complainant to strengthen her case. According to her deposition, she was not even aware about the contents of the complaint made by herself and though she was educated up to class 7, the complaint was not signed after being gone through. Her overall evidence thus contains number of exaggerations and therefore this Court does not find the same to be trustworthy.

9. The Court below, therefore, has been justified in discarding the evidence of the complainant and her witnesses and then arriving at the conclusion of innocence of the respondents/accused.

Their acquittal is thus based on the evidence so collected and no illegality or infirmity is seen in the judgment impugned. Accordingly, the revision being without substance is liable to be dismissed and is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)
Judge

Jyotishi