

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51075 of 2015

Arising Out of PS. Case No.-44 Year-2010 Thana- DELHA District- Gaya

Manorma Devi Wife of Shatrughan Bhagat @ Shatrughan Kumar, Resident of
Mohalla Barki Delha, P.S.- Delha, District- Gaya. Petitioner/s
Versus

1. The State Of Bihar
 2. Shankar Prasad son of Nand Lal Bhagat
 3. Kalindi Devi Wife of Shankar Prasad
 4. Sumitra Devi Wife of Nand Lal Bhagat All Resident of Mohalla Barki
Delha, P.S.- Delha, District- Gaya.
- Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rashid Izhar, Adv
For the Opposite Party/s	:	Mr.Surendra Kumar Singh, Sr.Adv.
	:	Mr. Praveen Prakash, Adv
For the State	:	Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 21-08-2019

Heard learned counsel for the parties.

2. The petitioner is informant of Delha P.S.Case No.44
of 2010 registered under Sections 498A and 379/34 I.P.C. against
opposite party Nos. 2 to 4.

3. After investigation, the police submitted chargesheet
for offences under Sections 323 and 504 I.P.C. Accordingly, the
learned Magistrate took cognizance on 04.03.2011 for offences
under Sections 323 and 504 I.P.C.

4. During trial, the petitioner filed a petition before
the learned court below that charge under Section 498A I.P.C. is
also made out on the basis of prosecution evidence. Hence, charge
under Section 498A I.P.C. be also added.



5. The prayer was made only after examination of the petitioner and her husband Shatrughan Bhagat, who is not an accused in this case. The learned Trial Magistrate allowed the prayer for addition of charge under Section 498A I.P.C. and the accused person were directed to remain present for framing of charges. The said order was passed on 09.05.2014. The accused person challenged the aforesaid order before the learned Sessions Judge in Cr. Revision No.02 of 2014. The matter was heard by learned Additional Sessions Judge-III, Gaya and by the impugned order dated 16.07.2015, the order of the Trial Court dated 09.05.2014 was set aside and criminal revision was allowed. The order of revisional court is under challenge in this application under Section 482 Cr.P.C.

6. The petitioner was examined in the case as P.W.2. She specifically deposed that the inlaws used to abuse and assault her as well as to her husband, as the husband was not fulfilling their demand of money. In the cross examination, she admitted that the father of the husband is a driver and mother sells vegetables whereas her husband was employed in B.S.N.L. Only her husband was employed on a Govt. post. She further stated that the mother-in-law had sold the family property but did not give money to the extent of the share of her husband in the said property. P.W.2 has



nowhere stated that there was illegal demand from P.W.2 or her parents. P.W.1 Shatrugan Bhagat, the husband of the petitioner, has also stated that both the spouses were being tortured by the family members, as the family members were demanding money, which they were not in a position to provide.

7. Learned counsel for the petitioner submits that the revisional court cannot substitute its own views on the view expressed by the learned Trial Court. It has very limited jurisdiction to examine the correctness, legality or propriety of the order passed by the learned court below. Hence, the impugned order is not sustainable in law.

8. On the other hand, learned counsel for the opposite party No.2 submitted that the trial court has committed error of record as there was no material in the prosecution evidence disclosing ingredients of the offence under Section 498 I.P.C. If the finding of the learned Trial Judge was suffering from error of record, the revisional court was competent to set the same right which has been done by the revisional court herein. Therefore, the same requires no interference.

9. Section 498A I.P.C. reads as follows:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever,



being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

10. There is no evidence on the record that cruelty was committed against the petitioner by the accused person as defined in Section 498A I.P.C. inasmuch as there is no evidence of



any willful conduct of the accused person of such a nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health .

11. There is no material to substantiate that the alleged harassment of the petitioner was with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. In category-(b), a husband cannot be a person related to the victim from whom demand of money was made by other in-laws. The “term any person related to her” would include only the maternal relation of the victim.

12. Therefore, there was no material on the record for addition of charge under Section 498A I.P.C. Hence, there is no need to interfere with the order of the revisional court in exercise of power under Section 482 Cr.P.C. Accordingly, this application is dismissed as devoid of any merit.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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