

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 124 of 2018

Arising Out of Complaint Case No.-242 Year-1994 Thana- EAST CHAMPARAN
COMPLAINT District- East Champaran

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Chunu Prasad Yadav @ Chunnu Ray @ Chunnu Prasad Yadav, Son of Surya Rai @ Suruj Rai, resident of village – Naya Tola Harpur, P.O. & P.S.- Pipra Kothi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Manju Devi, wife of Chunnu Prasad Yadav, Daughter of Dwarika Rai, resident of village- Murarpur Tola Baghaut, P.S. Harsidhi, District- East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Shankar Shrivastava, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the opposite party/s	:	Mr. Anil Kumar and Mr. Jai Prakash Singh, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 25-10-2019

Heard learned counsel for the petitioner; learned APP for the State and learned counsel for the opposite party no. 2.

2. The petitioner has moved the Court under Sections 397 and 401 of the Code of Criminal Procedure, 1973, against the judgment dated 01.11.2017 passed in Criminal Appeal No. 83 of 1997/18 of 2017 by the Fast Track Court-II, East Champaran, Motihari, by which the judgment and order of conviction and sentence dated 14.08.1997 passed in Trial No. 535 of 1997 arising out of Complaint Case No. 242 of 1994 by the Judicial Magistrate, 1st Class, Motihari, East Champaran has been affirmed.



3. The opposite party no. 2 is the wife of the petitioner and had filed the complaint case and trial was held under Sections 494 and 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961. After trial, the petitioner was convicted under Sections 494 and 498A of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years and fine of Rs. 2,000/- under Section 494 of the Indian Penal Code and rigorous imprisonment for two years and fine of Rs. 1,000/- under Section 498A of the Indian Penal Code and in default to further undergo simple imprisonment for four months. Challenge to the same in Criminal Appeal No. 83 of 1997/18 of 2017, was also rejected.

4. Learned counsel for the petitioner submitted that no evidence has been adduced with regard to the second marriage. It was submitted that neither the second wife nor her father or relatives have been examined. It was further submitted that all the witnesses are interested witnesses.

5. Learned APP, from the Lower Court Records, and learned counsel for the opposite party no. 2 submitted that the law does not prohibit any person who is related not to depose. It was further submitted that PW 4 namely, Bir Narain Rai, is an independent witness and he has categorically stated with regard to



the second marriage as also with regard to him having attended the second marriage of the petitioner. He submitted that in fact, PW 4 has stated in his deposition that he was a friend of the father of the petitioner and was invited to the marriage. It was submitted that in the cross examination, he has not changed his stand. Learned counsel submitted that as far as offence under Section 498A of the Indian Penal Code is concerned, the witnesses have consistently stated that there was torture. It was submitted that it has come during deposition of the witnesses that one of the reasons for the torture was the second marriage of the petitioner. Learned counsel submitted that there is a girl child born out of the wedlock of the petitioner and the opposite party no. 2.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. Having gone through the deposition of the witnesses and the judgments impugned, it is clear that the charge of cruelty inflicted on the opposite party no. 2 has clearly been brought home and has not been diluted in cross-examination. The issue of the witnesses being interested is noted only for the sake of rejecting the same. As has rightly been submitted by learned counsel for the State and learned counsel for the opposite party no. 2, law does not prohibit



or debar related witnesses to depose. The only requirement is that such deposition should inspire confidence and should withstand the test of law.

7. In the present case, nothing has been brought to the notice of the Court to indicate that the testimony of such witnesses is unreliable. Furthermore, it has not been denied that PW 4 is not related to the opposite party no. 2 and, thus, cannot be said to be unworthy of his testimony to be relied upon. Moreover, the discussions made by the trial Court are exhaustive and cogent and the inferences drawn are based on the records available before the Court, especially the testimony of the witnesses. The consideration by the appellate Court is also sound and does not require any interference.

8. In view thereof, the application stands dismissed.

9. The petitioner shall surrender before the Court below within two weeks from today to serve the remaining sentence.

10. The Lower Court Records be returned forthwith.

(Ahsanuddin Amanullah, J.)

P. Kumar

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