

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 407 of 2018

Arising Out of Complaint Case No.-213 C Year-2010 Thana- COMPLAINT CASE District-
Supaul

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1. Fulo Devi, Wife of Kameshwar Bhindwar.
 2. Kameshwar Bhindwar @ Kameshwar Yadav, Son of Basudeo Bhindwar.
Both resident of Village- Lalpur Khontaha, P.S.- Birpur, District- Supaul.
- Petitioner/s

Versus

1. The State of Bihar
 2. Ranjan Devi, Wife of Raj Kishore Bhindwar, resident of Village-Bishunpur
Chaudhary, P.S.-Baluaon Birpur, District-Supaul.
- Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Advocate
For the State : Mr. Anant Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 22-08-2019

Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners have moved the Court under Sections
397 and 401 of the Code of Criminal Procedure, 1973, against the
judgment and order dated 06.03.2018 passed in Criminal Appeal
No. 8 of 2017, by the Fast Track Court, 2nd, Supaul by which the
judgment and order of conviction and sentence passed against the
petitioners dated 07.07.2017 in Case No. 213C of 2010/Trial No.
221 of 2017, by the Additional Chief Judicial Magistrate, Birpur,
Supaul has been upheld.

3. The opposite party no. 2, is the wife of the brother of
the petitioner no. 2 and petitioner no. 1 is wife of petitioner no. 2.



4. The allegation by the opposite party no. 2 in her complaint is that due to illicit relationship between the petitioner no. 1 and her husband, besides there being a demand of Buffalo and Rs. 40,000/-, she was also harassed and tortured and finally after snatching of her belongings and ornaments, she was forcibly ousted from the matrimonial home.

5. Learned counsel for the petitioners submitted that though the allegation was of assault also but there has been no injury report brought on record. It was further submitted that the petitioner no. 1, who is said to have illicit relationship with the husband of the opposite party no. 2 is living separately. At this juncture, when the Court put a query as to how was it relevant that the injury report was not brought before the Court when the trial Court itself has acquitted the petitioners of charge under Sections 323 and 504 of the Indian Penal Code, he was not in a position to give any reply. On a further query of the Court as to how the petitioners can claim false implication when the opposite party no. 2 has clearly stated that during the flood when the petitioners had been living with the husband of the opposite party no. 2, and the opposite party no. 2 had gone to her parents' place, the husband had developed illicit relationship with the petitioner no. 1 and further that Section 498-A of the Indian Penal Code deals with



cruelty by the husband or his family members and in the facts of the present case when the same is clearly indicated when the opposite party no. 2 has been forced out of the Matrimonial Home, compelled to do so, which amounts to cruelty, and also in view of the consistent deposition of the witnesses with regard to such cruelty, coupled with the fact that in the cross- examination, there has been no contradiction, learned counsel was again not in a position to give any reply. It was further contended by him that the witnesses were interested.

6. Learned APP submitted that the order of the trial Court is well considered, based on the materials before it, including the statement of the witnesses. It was submitted that for constituting offence under Section 498-A of the Indian Penal Code, the ingredients required under the statute are totally borne out from the materials on record and the deposition of the witnesses which has stood the rigors of cross examination. It was further submitted that the allegation also being that the petitioner no. 1 had illicit relationship with the husband of the opposite party no. 2, due to which she was ousted from the matrimonial home and also had to suffer harassment and torture and the demand for buffalo and Rs. 40,000/-, by way of dowry, stands proved beyond reasonable doubt against the petitioners and, thus, the trial Court



judgment as well as the appellate Court judgment upholding the conviction and sentence is sound, both on facts as well as in law.

7. Having considered the facts and circumstances of the case and submissions of learned counsel, the Court finds that the contention on behalf of the petitioners that all witnesses were interested witnesses would not hold ground for the reason that just because the witnesses may be related or have proximity with the opposite party no. 2, such evidence cannot be thrown away only on the ground of such relationship as has been held by the Courts including the Hon’ble Supreme Court in various decisions, some of which have also been quoted in the order of the trial Court.

8. Accordingly, the Court finds that the conviction under Section 498-A of the Indian Penal Code of the petitioners is based on sound, cogent and good grounds which does not warrant any interference by this Court in its revisional jurisdiction.

9. In view thereof, the application stands dismissed.

10. The Lower Court Records be returned forthwith.

(Ahsanuddin Amanullah, J.)

P. Kumar

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