

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.299 of 2016

Arising Out of PS. Case No.- Year-1111 Thana- District-

Ranjeet Kumar, Son of Rajendra Ram Seth, R/o Village-Fatehpur, P.S.
Fatehpur, District Gaya

... .. Petitioner

Versus

1. The State of Bihar
2. Vimal Prasad, Son of Late Chattu Ram, R/o Mohalla Gola Road, P.S.
Nawada, District Nawada

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Thakur with M/S Nilesh Kumar,
Amit Kumar, Advocates
For the Respondent/s : Mr.Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
CAV JUDGMENT

Date : 05-07-2019

This revision application is directed against the judgment dated 20.1.2016 passed by Sri Premchand Pandey, Additional District and Sessions Judge-VI, Nawada in Cr.Appeal No. 45/2012/15/2014 whereby and whereunder the judgment and order dated 2.6.2012 passed by Sri S.K. Pandey, S.D.J.M., Nawada, in Complaint Case No. C-492 of 2000 convicting the revisionist-petitioner and other accused persons under Section 498A IPC has been confirmed. However, the conviction of the petitioner and other accused persons under Sections 3 and 4 of Dowry Prohibition Act was set aside.

2. As lower court record is available, the parties were heard and this case is being disposed of at the stage of admission itself.

3. The case of the complainant as per complaint petition, in short, is that the complainant (PW 7) married his daughter Anita Devi with revisionist-petitioner Ranjeet Kumar on 25.2.2000 in which complainant gave



gift worth Rs.1.25 lac and after marriage she went to her sasural and on 27.2.2000 on the occasion of Bahu Bhat (reception) the complainant and his family members went to her sasural where accused Jyoti Kumari demanded a scooter and almirah as dowry on instigation of other accused persons and humiliated them. Further case of the complainant is that his daughter Anita Devi was subjected to torture and harassment with respect to demand of scooter and almirah. Thereafter his daughter was taken to Ranchi for treatment due to mental and physical torture as she was mentally disturbed. Further case of the complainant is that his daughter was sent to her sasural on 19.3.2000 when again demand has been made which was informed to him by her and ultimately on 8.6.2000 accused persons ousted her from the house and she was left at Nawada by the revisionist-petitioner in her house by Scorpio vehicle. On the basis of the aforesaid complainant, Complaint Case No. 492 of 2000 was registered under Section 498A IPC and Sections 3/4 of the Dowry Prohibition Act, which ultimately traveled to the court of S.D.J.M., Nawada and after inquiry processes were issued against the revisionist-petitioner and other accused persons.

4. During trial altogether seven witnesses have been examined on behalf of prosecution, they are PW 1 Akhilesh Kumar, son of the complainant, PW 2 Vijendra Prasad, an independent witness, PW 3 Sunaina Devi, wife of complainant, PW 4 Bhagwan Pandey, priest who performed marriage of Anita Kumari and Ranjeet Kumar (revisionist-appellant), PW 5 Bhagwan Ram, an independent



witness, PW 6 is victim Anita Devi and PW 7 is complainant Vimal Prasad.

5. Apart from that, large number of documents have been brought on the record as documentary evidence. Ext.1-complaint petition, Ext.2-ordersheet dated 16.1.2010 in M.T.S.No. 94 of 2005 passed by Family Court, Gaya, Ext.3-judgment dated 19.1.2010 passed in the same case by the Principal Judge, Family Court, Gaya, Ext.4-summon of the said M.T.S. case dated 6.7.2000.

6. On behalf of defence though no ocular evidence has been adduced but they have brought the following documents as exhibits: Ext.A-plaint of Title (Matrimonial) Suit No. 27 of 2000, Ext.B-deposition of Dr. Arun Kumar Gupta in Matrimonial Suit, Ext.C- medical prescription of Dr. Uven Chaudhary, Ext.D- letter written by Anita Kumari dated 29.3.2000, Ext.E- discharge certificate of Anita Kumari dated 26.3.2000, Ext.F-informatory petition to Fatehpur P.S. given by Rajendra Prasad and Ext.-G is another informatory petition given by Rajendra Prasad to Nawada P.S.

7. Learned S.D.J.M. on conclusion of trial has convicted the revisionist-petitioner and three other accused persons under Section 498A IPC and Sections 3/4 of Dowry Prohibition Act. and sentenced them to undergo R.I. for 18 months each and fine of Rs.2000/- each for the offence under Section 498A IPC and in case of default in payment of fine they would be suffered for S.I. of 20 days each, further they were sentenced to undergo R.I. for three months each for the offence under Section 3 of Dowry Prohibition Act and a fine of Rs.1000/- each and they were also ordered to undergo R.I. for



three months for the offence under Section 4 of Dowry Prohibition Act and a fine of Rs.1000/- each and on failure to pay the fine they were further directed to undergo S.I. for 10 days each and all the sentences were directed to run concurrently.

8. Being aggrieved by the same, the revisionist-petitioner preferred Cr.Appeal No. 45 of 2012/15 of 2014 which ultimately traveled to the file of Sri Premchand Pandey, 4th District and Sessions Judge, Nawada, who after hearing the parties affirmed the conviction and sentence with respect to the revisionist-petitioner and three other accused persons under Section 498A IPC. However, their conviction and sentence under Sections 3/4 of Dowry Prohibition Act were set aside.

9. Being aggrieved by the said judgment and order of learned trial court as well as judgment of learned appellate court, the present revision application has been preferred by the revisionist-appellant. It appears that there is no information as to whether the other accused persons have preferred any revision application or not.

10. Learned counsel for the petitioner has not entered into the findings of guilt under Section 498A IPC by learned trial court as well as learned appellate court as it is settled principle of law that a revisional court should not enter into reappraisal of evidence where there is concurrent finding on them by trial court as well as appellate court unless there is inherent illegality or there is clear case of misappreciation of evidence in right perspective. On the other hand, the petitioner has assailed the judgment on the ground that even if the allegation which has come during the evidence, is taken on its face



value the ingredient of Section 498A IPC is not made out as the conviction of the revisionist-appellant under Sections 3 and 4 of Dowry Prohibition Act has already been set aside by the appellate court and so far other evidence of cruelty and torture is concerned, in the background of the fact that the revisionist has filed a divorce suit against the daughter of the complainant on the ground that she is suffering from mental sickness, those evidences do not constitute the offence of cruelty as defined in Explanation-(a) to Section 498A IPC as at best there are vague allegations that she was subjected to cruelty, not providing food and also of assaulting her and another evidence that the petitioner left her at Nawada and since then she is residing there and in view of that the impugned judgment suffers from inherent illegality and impropriety.

11. So far Section 498A IPC is concerned, it provides 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 purposes 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.”



12. Section 397 of the Criminal Procedure Code provides for filing revision before the High Court to test the correctness, illegality and impropriety of the judgment and order also as to whether they suffer from jurisdictional error.

13. Hon'ble Apex Court has considered the basic ingredients of Section 498A IPC in the case of Undavalli Narayana Rao vs. State of Andhra Pradesh : (2009) 14 SCC 588 in paragraph 15 of the judgment, which is as follows :

“15. “Cruelty” has been defined by the Explanation added to the section itself. The basic ingredients of Section 498A IPC are cruelty and harassment. The elements of cruelty so far as clause (a) is concerned, have been classified as follows :

(I) any “wilful” conduct which is of such a nature as is likely to drive the woman to commit suicide; or

(ii) any “wilful” conduct which is likely to cause grave injury to the woman; or

(iii) any “wilful” act which is likely to cause danger to life, limb or health, whether physical or mental of the woman.

For the purpose of clause (b) the essential ingredients are as under:

(i) the harassment of a married woman

(ii) with a view to coercing her or any person related to her to meet the unlawful demand of dowry or for any property or valuable security or on account of her failure or failure of any person related to her to meet such a demand.

Therefore, it is evident that the charge under Section 498A can be brought home if the essential ingredients either in clause (a) or (b) or both are found duly established.”

Further relying upon another judgment of Hon'ble Apex Court it is observed in paragraph-16 of the said judgment as follows :

“16. In S. Hanumantha Rao v. S. Ramani this Court considered the meaning of cruelty in the context of the provisions under Section 13 of the Hindu Marriage Act, 1955 and observed that : (SCC p. 624, para 8)

“8. Mental cruelty broadly means, when either party causes mental pain, agony or suffering of such a magnitude that it servers the bond between the wife and the husband and as a result of which it becomes impossible for the party who has suffered to live with the other party. In other words, the party who has committed wrong is not expected to live with the other party.””



Hon'ble Apex Court has also discussed the other judgments on the point of cruelty in paragraphs 17, 18, 19, 20 and 21 of the said judgment. Even the Legislative intent behind inserting Section 498A IPC was to curb out harassment to women for payment of dowry under the garb of fulfilment of customary obligation and also subjecting her to continuous harassment and cruelty. As such it is settled that cruelty does not mean physical assault but also includes mental cruelty.

14. In the present case, evidence available on the record disclosed that daughter of opposite party No.2, who is wife of the petitioner, was subjected to torture and harassment continuously and petitioner along with his family members treated her as mentally sick and even taken her to Ranchi but the evidence of PW 6, wife of the petitioner, disclosed that Doctor told due to assault and harassment meted out to her she became sick. Apart from that, materials available on the record show that the Matrimonial Suit being MTS No. 94/05/27/2000 under Section 12 of Hindu Marriage Act filed by the petitioner for declaring the marriage as nullity was also dismissed, which will appear from Ext.3 as learned Family Court has found that it is not proved that Anita Devi has been suffering from incurable of unsound mind and continuously suffering from insanity or mentally disorder. Calling her insane and also a suit against daughter of opposite party No.2, i.e., wife of the petitioner, also amount to one of the ingredients of cruelty as she was made to suffer not only the mental agony and pain due to the treatment meted out to her but also that put a stigma on her before the society.



15. Not only that, there are consistent evidence available on the record that petitioner forcibly dropped her to her house. Evidence of PW 6 also disclosed that all her belongings were also snatched and since then she is residing at her maike and has to depend on her father and mother for her livelihood and during stay at her maike it can very well be inferred that she suffered mental agony and suffering due to the fact that she was left by her husband. On perusal of the evidence as well as the statement of the accused petitioner on the record there is nothing available on the record to show that she left her sasural on her own, rather the above evidence shows that she was forcibly dropped at her maike. There is also evidence on torture and harassment with respect to demand of Godrej Almirah and Scooter. However, since learned appellate court has set aside the conviction of revisionist-petitioner under Sections 3 and 4 of Dowry Prohibition Act and no appeal was preferred either by the State or informant, as such this Court restrained itself to examine the legality or correctness of the same.

16. However, the discussions made above disclosed that there are sufficient evidence available on the record that she was subjected continuously for harassment and torture. She was tried to be declared mentally sick and she was forcibly left at her maike after snatching all her belongings. The above evidence also shows that the petitioner in order to left his wife (PW 6) has committed the above act in collusion with the other accused persons and this Court is of the opinion that the above evidence clearly constitute an offence as per Explanation (a) to Section 498A IPC.



17. This application being devoid of merit is, accordingly, dismissed.

18. The petitioner is directed to surrender before the trial court at once to serve out the sentence.

19. Let a copy of this judgment be sent to the learned trial court as well as learned appellate court at once.

(Vinod Kumar Sinha, J)

spal/-

AFR/NAFR	
CAV DATE	27.6.2019
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