

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.979 of 2018

Arising Out of PS. Case No.-683 Year-2004 Thana- COMPLAINT CASE District-
Kishanganj

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1. Shambhu @ Shambhu Lal Mallah, s/o Tikam Lal Mallah.
 2. Baidnath Singh @ Baidhyanath Mallah, s/o Badhyanath Singh.
 3. Lukum Mallah @ Lukku Singh, s/o Tikam Lal Mallah.
 4. Jhunjhunia Devi, w/o Baidhyanath Mallah.
 5. Megha Nath Mallah, s/o Dandilal Mallah.
 6. Urmila Devi, w/o Pancham Lal Mallah, all resident of Village- Tappu Tola, P.S.- Dighalganj, District- Kishanganj.
 7. Dulari Devi, w/o late Anup Lal Mallah, resident of village- Kharitola Tola, P.S.- Dighalganj, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar,
2. Tara Devi, w/o Shambhu Mallah, resident of village- Tappu Tola, P.S. Bibiganj, District- Kishanganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Diwakar Sinha, Advocate
For the State	:	Mr. Jai Narain Thakur, APP
For Opposite Party No.2	:	Mr. Shashi Chandra Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 15-11-2019

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

2. The petitioners have moved the Court against the order dated 24.01.2017 passed by the Additional Sessions Judge, 1st, Kishanganj, in Criminal Appeal No.62 of 2007/CIS No.300 of 2013 by which judgment and order of conviction and sentence dated 05.05.2017 passed by the SDJM, Kishanganj, in Complaint Case No.683(C) of 2004 has been upheld.

3. The opposite party no. 2 is the wife of the petitioner



no. 1 and had filed the Complaint Case No.683(C) of 2004 under Sections 323 and 498-A of the Indian Penal Code (hereinafter referred to as 'IPC') and Section 4 of the Dowry Prohibition Act, 1961. Upon trial, the petitioners were convicted under all the three sections and sentenced to undergo simple imprisonment for three months under Section 323 of IPC and rigorous imprisonment for two years and fine of Rs.1,000/- under Section 498-A of IPC, and upon non-payment of fine to undergo further simple imprisonment for one month and also one year rigorous imprisonment under Section 4 of the Dowry Prohibition Act. Appeal filed by them was also dismissed.

4. During trial, a stand was taken that for the last many years the opposite party no. 2 along with her daughter was living in the matrimonial home with the petitioners. Today, the petitioner no. 1 and the opposite party no. 2 and their daughter are also present. A joint affidavit has been filed today on their behalf in which it has been stated that they are living a happy married life since 2010 and the child was born on 10.06.2011. Moreover, before the Court, the petitioner no. 1 has categorically stated that he shall keep the opposite party no. 2 and daughter with full dignity, honour and security and shall be taking care of their all needs including medical needs in future also.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the



Court finds that the matter emanated from marital discord and for various reasons the opposite party no. 2 being aggrieved had alleged atrocities and overt-acts against the petitioners, which has resulted in conviction and dismissal of the appeal. However, as now, the opposite party no. 2 with her daughter is living happily with the petitioners and the matter is not related to either moral turpitude or affects the public at large, the Court is inclined to intervene in the matter so that the issue is closed once and for all and the parties can lead a peaceful family life.

6. Learned APP also does not oppose.

7. In the aforesaid background, the application is allowed. The order dated 05.05.2017 passed by the SDJM, Kishanganj, in Complaint Case No.683(C) of 2004 as also the order dated 24.01.2017 passed by the Additional Sessions Judge, 1st, Kishanganj, in Criminal Appeal No.62 of 2007/CIS No.300 of 2013 are set aside. The petitioners are discharged of the liabilities of their bail bonds.

8. The lower court records be returned forthwith.

(Ahsanuddin Amanullah, J)

J. Alam/-

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