

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1367 of 2018

Arising Out of PS. Case No.-239 Year-2012 Thana- COMPLAINT CASE District-
Kishanganj

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Bengali Singh son of Late dhirendra Singh @ late Dhiran Singh r/o Village
Mirzapur, P.S. Pothia, District Kishanganj.

... .. Petitioner/s

Versus

1. State Of Bihar.

2.Sandhya Kumari, w/o Bengali Singh, r/o village Jalu Chowk (Maulanpara),
PS Pothia, District Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Firoz Ahmad
For the Respondent/s : Mr.Sri Shyameshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 13-03-2019

Heard parties.

2. This criminal revision petition has been filed against the judgment and order dated 4-9-2018 passed by Sessions Judge, Kishanganj, in Criminal Appeal No. 03 of 2018 dismissing the appeal while reducing the order of sentence to undergo simple imprisonment for six months and also set aside the order of fine which was filed by the petitioner against the judgment of conviction and order of sentence dated 08.02.2018 passed by Sub Divisional Judicial Magistrate-Kishanganj in Complaint Case No. C239 of 2012 (CIS No. 4269 of 2013)



(Trial Number 329A of 2018) by which petitioner was convicted under Section 498A of IPC and sentenced to undergo simple imprisonment of 2 years and fine of Rs. 5000/- and in default to undergo further simple imprisonment for 6 months.

3. Complainant-Opposite Party No. 2 had filed a complaint on 23.02.2012 in the court of Sub Divisional Judicial Magistrate-Kishanganj, alleging therein that she got married with petitioner on 08.07.2011, and in marriage cash and gifts were presented to petitioner but when she went to her matrimonial home, Rs. 2 Lacs and 5 Bhar Gold was demanded and for non fulfillment of which she was tortured, abused and assaulted and was also ousted from her matrimonial home and she was forced to live in her parental house.

4. Complainant was examined on S.A. by the court and in support of allegation enquiry witnesses were examined and trial court found *prima facie* case under section 498A of the IPC to be made out against the petitioner and took cognizance of the offence under section 498A of IPC on 18.05.2012 and issued summons for their appearance but during trial one of the accused Kandari Devi died and as such proceeding against her were dropped.

5. Charges were framed against petitioner under



Section 498A of IPC on 15.06.2013 to which he pleaded not guilty and claimed to be tried.

6. Complainant was examined as PW-3 and in her examination-in-chief she has stated that marriage between her and petitioner was solemnized on 08.07.2011 and thereafter she went to her matrimonial house. However, after 2 months the accused-petitioner started demanding Rs. 2 lacs and 5 Bhar Gold as dowry and for non fulfillment of which she was being harassed, tortured and ultimately ousted from her matrimonial home. She has further stated that she was assaulted and co-villagers came there to save her, but however, she could not disclose the name of her co-villagers as she was worried about her safety. It has been further stated that last incident happened on 21.02.2012 at about 5:00 p.m. and thereafter *panchayati* was also held but same could not be resolved and she returned to her parental home.

7. In support of charge four witnesses have been examined including complainant, who is PW-3 herself. Kartik Singh (brother) is PW-4, Manglu Singh (Sarpanch) is PW-2 and Bhupendra Singh (Fufa) is PW-1. They all are heresay witnesses and in their deposition they have stated that they got knowledge with respect to demand of dowry and torture committed on



complainant by accused-petitioner from complainant herself. They are not the eye witness of demand of dowry or torture committed upon the complainant.

8. Defence has neither examined any witness nor produced any document before the trial court.

9. The trial court on consideration and appreciation of evidence adduced on behalf of prosecution has held that the witnesses have stood the test of cross-examination and there is nothing in their cross-examination to disbelieve them and has found the oral evidence of witnesses to be credible and trustworthy and found the charges framed against petitioner under Section 498A of IPC to be proved beyond all reasonable doubt and held him guilty and convicted and sentenced to undergo simple imprisonment for 2 years and fine of Rs. 5000/- and in default of payment of fine to further undergo simple imprisonment for 6 months.

10. Aggrieved by said judgment of conviction and order of sentence, petitioner preferred appeal in the court of Sessions Judge, Kishanganj, being Criminal Appeal No. 03 of 2018, which was heard by Sessions Judge, Kishanganj and on reconsideration and re-appreciation of evidence adduced before the trial court, he came to the conclusion that the finding of guilt



arrived by the trial court is after due appreciation and consideration of evidence on record and upon re-appreciation and reconsideration of evidence on record found charges to be proved against petitioner and dismissed the appeal upholding the judgment of conviction under Section 498A of IPC. However, on re-consideration reduced the order of sentence, as to undergo simple imprisonment for 6 months and also set aside the order of fine.

11. Aggrieved by said order petitioner has filed the present criminal revision petition.

12. After hearing the parties and going through the judgment passed by both the courts, this court finds that there is concurrent finding of both the courts that prosecution has been able to prove the demand of dowry by accused-petitioner and for non fulfillment of which Opposite Party No. 2 was subjected to torture and harassment as a result of which she had to take shelter in her parental home. The trial court as well as appellate court after due consideration and appreciation of evidence on record have found that prosecution has been able to establish charges under Section 498A of IPC beyond all reasonable doubt and convicted the petitioner. This Court does not find any error in the judgment of conviction passed by trial court as affirmed



by the appellate court, however, considering that it was the first offence of petitioner and also complainant had not suffered any injury as there is no injury report on record and also in view of the fact that in her deposition she has admitted that she was having dispute with her Mother-in-Law and elder and younger Brother-in-Law as well as Sister-in-Law, as such the sentence is modified to the period already undergone.

13. The criminal revision petition is dismissed, however, order of sentence is modified to the period already undergone by the petitioner. The petitioner is directed to be released forthwith if not wanted in any other case.

(S. Kumar, J)

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