

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1313 of 2018

Arising Out of PS. Case No.-191 Year-2009 Thana- COMPLAINT CASE District- Jamui

Manoj Yadav Son of Bundi Yadav, Resident of Village- Bhullo, Police Station-Sikandra, District-Jamui.

... .. Petitioner/s

Versus

1. State of Bihar.
2. Rajni Devi, wife of Manoj Yadav, Resident of Village- Acharya Dih, Kumar Tola, Police Station-Sikandra, District-Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jagjit Roshan

For the Respondent/s : Mr.Sri Anand Kishore Choudhary

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 28-03-2019

Heard the parties.

2. This criminal revision petition is filed against the judgment and order dated 09.01.2018 passed by learned Additional District Court, Fast Track Court-I, Jamui, in Cr. Appeal No. 6 of 2016 by which Cr. Appeal filed by petitioner was dismissed, affirming the judgment of conviction and order of sentence dated 18.01.2016 passed by Sub-Divisional Judicial Magistrate, Jamui in Complaint Case No. 191 of 2009 convicting petitioner under Section 498A of IPC and sentencing to undergo simple imprisonment of one year and fine of Rs. 3000/- and under Section 4 of Dowry Prohibition Act and sentencing him to undergo simple imprisonment for six months and fine of Rs. 3000/-. Both the sentences to run concurrently.



3. Opposite Party No. 2 had filed a Complaint Case against petitioner alleging that marriage between the parties were solemnized in the year 2005 and after marriage opposite party No. 2 came to her matrimonial home but soon thereafter her in laws and her husband started torturing her for non fulfillment of Rs. 20,000/- as dowry. Attempt was made to kill her by poisoning and also by setting her ablaze. She was ousted from her matrimonial home and all her jeweleries and ornaments were kept by the accused.

4. Charges were framed under Section 498A of IPC and 4 of Dowry Prohibition Act to which petitioner pleaded not guilty and claim to be tried. The trial court found the charges to be proved against the petitioner, however, other accused were exonerated of charges.

5. Altogether three witnesses were examined on behalf of prosecution and they were cross examined by the defence. P.W. 3 is Rajni Devi, Complainant and in her examination in chief she has stated that she was married to petitioner on 23.09.2010 as per Hindu Customs and rituals and after marriage she went to her matrimonial home and after some time Rs. 20,000/- was demanded and on non-fulfillment of Rs. 20,000/- she was assaulted and also deprived of food. Attempt was also



made to kill her. In her cross examination she stated that she wanted to live with petitioner but was not ready to go with petitioner from the court. She has further stated that petitioner has performed 2nd marriage. P.W.1 is mother of complainant and P.W. 2 is brother of complainant who have supported the allegations as made in complaint case.

6. On behalf of defence a certified copy of order passed in matrimonial suit NO. 45/10 dated 05.08.2011 passed by Family Court was produced which was marked as exhibit A in which the petition filed by petitioner for restitution of conjugal rights was allowed by the Family Court and it was argued that in spite of said order opposite party No. 2 refused to go to her matrimonial house to resume her married life.

7. After considering the evidence on record and its appreciation, the trial court found the charges to be proved against petitioner and passed order dated 18.01.2016 of judgment of conviction and order of sentence and aggrieved from which petitioner preferred Cr. Appeal being Cr. Appeal NO. 6 of 2016 and after reappraisal and re-appreciation of the evidences led before the trial court, the appellate court did not find any error in the finding of trial court and dismissed the criminal appeal of petitioner against which present revision has



been filed.

8. After hearing the parties and perusing the orders passed by the trial court and the appellate court, this Court does not find any error, illegality or irregularity in the judgment and order passed by court below as such the judgment of conviction is upheld, however, since it was the first offence committed by the petitioner and in spite of order passed by the Family Court allowing the petition of petitioner for restitution of Conjugal Rights, even thereafter opposite party No. 2 did not resume her married life, as such the order of sentence is modified to the period already undergone.

9. In the result, the judgment of conviction is upheld, however, the order of sentence is modified to the period already undergone.

10. The criminal revision petition is partly allowed to the extent as indicated above. Petitioner is directed to be released from prison if not wanted in any other case.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.04.2019
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