

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.160 of 2002

1. Ashok Kumar S/o. Bikhas Sagar, Aged about 34 years,
 2. Bikham S/o. Padum Sahis, Aged about 54 years,
 3. Photobai S/o. Bhikhas, Aged about 49 years,
- All residents of Birra, P.S. Jaijaipur, District Janjgir Champa (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through District Magistrate Janjgir Champa, District Janjgir Champa (C.G.)

---- Respondent

For the Applicants : Mr. Aman Kesharwani, Advocate
For the Respondent : Mr. I. Lakra, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

13.02.2019

The original record of the case is reported to have been destroyed and therefore, this Court has no other option but to decide the case on the basis of whatever material is available.

2. The judgment under challenge in this revision petition is dated 18.01.2002 passed by Additional Sessions Judge Sakti, in Criminal Appeal No. 24/2001, affirming the judgment dated 03.01.2001 passed by Additional Chief Judicial Magistrate Sakti, in Criminal Case No. 220/1992, convicting the accused/applicants under Sections 498-A IPC and 4 of the Dowry Prohibition Act and

sentencing them to undergo RI for 1 years with fine of Rs. 300/- u/s. 498-A IPC, RI for 6 months with fine of Rs. 250/- u/s 4 of the Dowry Prohibition Act plus default stipulation.

3. Facts of the case, in short, are that complainant Durga Bai was married to accused/applicant No.1 Ashok Kumar. Applicant Bhikham is father-in-law of the complainant and Photobai is mother-in-law of the complainant. After the marriage, complainant was residing along with the applicants in her matrimonial house. The complainant (PW-1) lodged a report alleging that she was subjected to cruelty and harassment by the applicants to fulfill demand of dowry and they demanded Rs. 16,000/- in cash and gold ring, Mangal Sutra from her. Thereafter, she was sent to her matrimonial house after due advice, but the applicants again started harassing and treating the complainant with cruelty by demanding dowry. On 28.05.2001 FIR (Ex. P-1) was lodged by the complainant against the accused persons at Police Station Kasdol. After filing of charge-sheet, the trial Court framed the charge against them under Section 498-A IPC.

4. Learned Magistrate having perused the material before it convicted the accused/applicant under Sections 498-A IPC and 4 of the Dowry Prohibition Act and sentenced them as above, which on appeal has been affirmed by the judgment impugned. Hence, this revision.

5. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicants is confined to reduction

of sentence imposed on the accused/applicants to the period already undergone on account of the fact that the case is quite old and the accused/applicants have already remained in jail for some time.

6. State counsel however, supports the findings recorded by the both the Courts below.

7. From the testimony of the Complainant (PW-1), it is clear that for few days after marriage she was treated well by the accused/applicant but with the passage of time he started ill-treating her. The judgment impugned also shows that once the accused/applicants raised demand for money and *mangalshutra* and when the complainant expressed her inability, they had even driven her out of the house and put a condition that she would be permitted to enter their house only after she got the money and *mangalshutra*. Thus the ingredients of cruelty contained under Sections 498-A IPC and 4 of the Dowry Prohibition Act are fully attracted to the case of the prosecution and being so both the Courts below do not appear to have committed any illegality in holding them guilty as such. Their conviction under Section 498-A IPC and 4 of the Dowry Prohibition Act is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 1991 that the accused/applicants have already remained in jail for a period of 2 months and 8 days and further that by now they must be leading a well settled

life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone.

9. With the above, the revision stands allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/santosh