

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 116 of 2009

1. Shantanu Bhattacharya, S/o Shambhu Tara Bhattacharya, aged about 34 years,
2. Smt. Swati Bhattacharya, W/o Late Shambhu Tara Bhattacharya (wrongly mentioned in order Shambhu Nag) aged about 72 years.

Both are resident of Quarter No.A Shree Apartment
Jainagar, Bangalore (Karnataka).

---- Applicant

Versus

The State of Chhattisgarh through District Magistrate, District
Raipur (C.G.)

--- Respondent

For Applicant	: Shri Sandeep Yadav, Advocate
For State/Respondent	: Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

14/03/2019

Complainant Ishani Bhattacharya (PW-1) had lodged an FIR (Ex. P-1) to the effect that on 13.05.1999 she was married to accused/applicant Shantanu Bhattacharya and just 15 days thereafter he along with his mother (applicant No.2) started harassing her making a demand of Rs.50,000/-. It is alleged that applicant No.2 even used to keep her salary which she was getting by teaching in a private school and the accused/applicant No.1 after consuming liquor also used to mentally torture her by hurling filthy abuses at her. On account of their ill treatment, the complainant is even said to have suffered miscarriage in the year 2000. Even after being made to understand by her parents, the accused/applicants remained adamant in their demand and expressed their readiness to keep her with them only after the demand of Rs.50,000/- was fulfilled. When the complainant did not see any way out to pacify the accused/applicants, FIR (Ex. P-1) was lodged on the basis of which offence under Section 498-A/34 IPC was registered against them.

2. After considering the material on record, trial Court vide judgment dated 22.09.2008 passed in Criminal Case No.267/2007 held the accused/applicants guilty under Section 498-A/34 IPC and sentenced each of them to undergo RI for 6 months with fine of Rs.500/-, in default of payment of fine to further undergo SI for 10 days. On appeal also, the findings recorded by the trial Court have been affirmed vide judgment impugned dated 11.02.2009 passed in Criminal Appeal No.130/2008. Hence this revision.

3. Counsel for the accused/applicants submits that the complainant has made absolutely vague allegations against the accused/applicants who happen to be her husband and mother-in-law respectively. He further submits that had she been really harassed by the accused/applicants, she should have reported the matter to the Police without any delay, however in the present case her marriage with applicant No.1 was performed in the year 1999 but the report was lodged only on 03.08.2001 i.e. after an interval of about 2 years. He submits that both the Courts below have failed to consider the evidence of the witnesses in its proper perspective while holding the accused/applicants guilty as described above and being so, the judgment impugned is liable to be set aside.

4. State counsel however supports the judgment impugned.

5. Having gone through the evidence of complainant (PW-1) it becomes apparent that after her marriage with applicant No.1, he as also his mother (applicant No.2) herein raised a demand of Rs.50,000/- and when it could not be fulfilled, they started harassing her. They also had dropped her at her parents house and asked them to keep her only after the demand raised by them was fulfilled. Even the salary which she was getting from the private school was being kept by accused/applicant No.2. Not only this, as a result of constant ill treatment, she underwent miscarriage. The statement of PW-1 gets complete corroboration from the

evidence of PW-2, PW-3, PW-4, PW-5 and PW-6 who have also described the agony undergone by the complainant at the hands of accused/applicants. Being all this, both the Courts below do not appear to have committed any error while convicting the accused/applicants as mentioned above and, therefore, their conviction is hereby maintained.

6. As regards sentence, keeping in mind the fact that the incident had taken place in the year 2001, that the accused/applicants are the husband and mother-in-law of the complainant, that the cordiality among them is likely to be restored and that they have already spent about 10 days in jail, this Court does not see any reason in again sending them inside. Thus keeping interest of justice in mind, the sentence imposed on them is reduced to the period already undergone. However looking to the facts and circumstances of the case, the fine imposed on them is enhanced to Rs.5000/- from that of Rs.500/- which each of them have to deposit in the trial Court within a period of 4 months from today or else this order would not be available to them.

7. Revision is thus allowed in part.

**Sd/-
(Vimla Singh Kapoor)**

Judge

Jyotishi/Ajay