

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 02 of 2005

Order reserved on 23.01.2019

Order pronounced on 28.11.2019

Nandlal Dewangan, S/o. Kunj Bihari Dewangan, aged about 40 years, R/o. Babu Nandini Nagar, District Durg, CG.

---- Applicant

Versus

State of Chhattisgarh, through P.S. Nadini Nagar, District Durg, CG.

---- Respondent

For Applicant : Shri Adil Minhaj, Advocate

For State/ Respondent : Shri D.P. Singh, Dy. AG

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

Initially on the basis of FIR (Ex. P-8) lodged by complainant PW-2 the accused/applicant herein and his brother, mother and sister-in-law were made accused for subjecting the complainant to cruelty demanding Rs. 1,00,000/- for dowry. However, learned trial Court vide judgment dated 03.03.2004 convicted only the accused/applicant herein but acquitted all others of the charges levelled against them. Hence this revision.

2. Allegation against the present applicant is that after the birth of a male child who unfortunately had an orifice in his heart coupled with closer of his palate, the accused/applicant dropped his wife (PW-2) at her parents house and never tried to get her back. It is alleged that whenever the complainant returned to matrimonial house, the accused/applicant used to beat her and also forced her to go back to her parents' house and return only after she got Rs. 1,00,000/- from her parents. For considerable

period of time she was made to live in her parents' house along with her small child with the medical problem mentioned above.

3. Counsel for the accused/applicant submits that the judgment impugned convicting the accused/applicant u/s 498-A IPC and sentencing him to undergo RI for seven days with payment of fine of Rs. 200/- is not based on the evidence collected by the prosecution and, therefore, the same is liable to be set aside.

4. State counsel however supports the judgment impugned and submits that as there is sufficient evidence regarding the victim being subjected to cruelty by the accused/applicant for demand of Rs. 1,00,000/-, and that he dropped the complainant along with her small ailing child in her parents house and never tried to get them back to his house, the judgment impugned does not require any interference by this Court.

5. Having analyzed the evidence of the witnesses examined by the prosecution, it is apparent that Shashi Dewangan (PW-2) was married to the applicant herein on 05.06.1990 and only for one year she lived in her matrimonial house. According to the evidence on record, the problem leading to the incident arose only after delivery of the child with orifice in his heart coupled with closer of his palate and that the applicant did not make any effort to get his wife and son back to his house, rather he dropped them at the house of her parents as a hot potato. Record also goes to show that the applicant even filed a divorce petition which makes his intention clear to get rid of them forever. Even the letters marked as Ex. P-1 and Ex. P-2 written by the victim herself to her parents clearly go to show that the accused/applicant did not permit her even to communicate with

her parents on phone and also threatened her of being killed in case of non fulfillment of demand of money. This version finds due corroboration from the evidence of most of the witnesses examined by the prosecution.

6. The evidence discussed above is well enough for this Court to uphold the view taken by learned lower Appellate Court convicting the accused/applicant herein under Section 498-A IPC and sentencing him to undergo RI for 7 days with fine of Rs. 200/-. Accordingly, the revision being without any merits is liable to be dismissed and same is hereby dismissed by maintaining the judgment under challenge in this revision.

Sd/-
(Vimla Singh Kapoor)
Judge

Jyotishi/Pawan