

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 613 of 2006**

- Rajendra Nand S/o H. Nand Aged About 35 Years, R/o-Dallirajara, Tahshil- Balod, District - Durg, Chhattisgarh.

---- Applicant**Versus**

1. State Of Chhattisgarh, Through : District Magistrate, Rajnandgaon, Chhattisgarh.
2. Smt. Shikha Nand W/o Shri Rajendra Aged about 32 years, R/o dongargarh, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Basant Dewangan, Adv.
For Respondent No. 1/State	:	Mr. Wasim Miyan, PL.
For Respondent No. 2	:	Mr. Rahil Kochar, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****06/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 29.09.2006 passed by the learned Additional Sessions Judge, Rajnandgaon, in Cr. Appeal No. 61/2005 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Dongargarh, District-Rajnandgaon vide its judgment dated 08.07.2005 in Criminal Case No. 554/1999 for the offence punishable under Section 498-A of IPC and sentenced him to undergo R.I. for six months with fine of Rs. 1,000/-, plus default stipulation.

2. Brief facts of the case are that the complainant Shikha Nand was married to the applicant on 13.05.1996 as per the rituals and customs of Christianity in Wesleyan Methodist Church, Dongargarh. Just after 4 days of the marriage the applicant started misbehaving with complainant. The applicant was having illicit relationship with his sister-in-law. Complainant informed by the accused persons that the articles gifted at the time of marriage were stolen and when she was to go to report the matter in police Station the accused persons stopped her from doing so. Complainant filed

complaint case against the applicant and after inquiry learned trial Court registered the case against the present applicant and other family members and framed charge under Section 498-A of the IPC.

3. So as to hold the accused/applicant guilty, the complainant has examined as many as 3 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 08.07.2005, learned Judicial Magistrate has acquitted the 4 co-accused persons from charge under Section 498-A of the IPC and convicted and sentenced the accused/applicant for the offence punishable under Section 498-A of IPC and sentenced him to undergo R.I. for six months and to pay fine of Rs. 1,000/-, with default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Learned Counsel for the applicant submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 1999, and thereby more than 20 years have rolled by since then. The applicant has already remained in jail for about 12 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

6. Learned counsel for the State has no objection to this proposition.

7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the Sikha Nand (CW-1) and Nagoram (CW-1) (again written witness No.1) Sukhdayal Ram (CW-2) and Smt. V. Ram (CW-3), which established the involvement of the accused/applicant in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the

applicant under Section 498-A of IPC being so it is hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 1999, and further that the applicant had already remained in jail for about 12 days, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond shall stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**