

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved On 29.08.2019****Order Delivered On 28 .11.2019****CRR No. 340 of 2006**

- Sheela Singh W/o Ramkeshwar, aged about 29 years, R/o Korba, Police Station Korba, District Korba (C.G.)

---- Applicant**Versus**

1. Shankar Prasad Verma S/o Matuk Ram Kushwaha aged about 61 years, Occupation- Lecturer, R/o Wadrafanagar, Basantpur, District Sarguja (C.G.)
2. Ramkeshwar Singh S/o Shankar Prasad Verma, Aged about 40 years, Occupation Doctor, Primary Health Center (Prathmik Swasthya Kendra) Kondagaon, District Bastar (C.G.)
3. Smt. Gaytri W/o Tarachand aged about 30 years, Occupation- House Wife, R/o Sarna, P.S. Raghunathnagar, District Sarguja (C.G.)
4. Anil Kumar Kushwaha S/o Shankar Prasad Verma, Aged about 38 years, Occupation Teacher, R/o Govt. Higher Secondary School, Basangi, P.S. Raghunathnagar, District Sarguja (C.G.)
5. Onkarnath Kushwaha S/o Shakar Prasad Verma Aged about 29 years, Occupation- Pharmacist, R/o Sada Colony Dantewada, P.S. Dantewada, District Dantewada (C.G.)
6. State of Chhattisgarh through Police Station Chandani, District Sarguja (C.G.)

---- Respondents

For Applicant	:	Mr. Ganesh Ram Burman, Adv.
For Respondents	:	Mr. Bharat Sharma on behalf of Mr. Manoj Paranjape, Adv.
For State	:	Mr. Akhtar Hussain, PL

Hon'ble Smt. Justice Rajani Dubey**C.A.V. Order****28.11.2019**

1. Challenge in the present revision petition is to the judgment and order dated 28.02.2006 passed by Additional Chief Judicial Magistrate, Sarguja in Criminal Case No. 397/2002 whereby the

learned Court below has acquitted the accused/respondents of the offence under Sections 498(A) read with Section 34 of IPC.

2. Brief facts of the case are that, applicant Sheela Singh was married with Ramkeshwar Singh (respondent No. 2) in the year 1995 at village Balangi. Complainant and Ramkeshwar Singh (respondent No. 2) were living happily for a period of three months but after that, all respondents have started threatening and torturing the complainant both physically and mentally and demanded Rs. 1,00,000/- cash. Complainant filed FIR against all the respondents/accused on 19.07.1996. After completion of investigation charge-sheet has been filed and charge was framed against the respondents under Section 498(A) read with 34 of IPC, by the trial Court.

3. Prosecution has examined 5 witnesses in support of its case. Statements of the respondents were also recorded under Section 313 of the Code of Criminal Procedure in which they denied the charges levelled against them and pleaded false implication in the case and examined 1 witness in support of their defence.

4. After hearing the parties, the trial Court, vide its judgment dated 28.02.2006 has acquitted the accused/respondents of the offence punishable under Section 498(A) read with Section 34 of IPC. Hence, the present revision by the applicant, assailing the acquittal.

5. Counsel for the applicant submits that the judgment of trial Court is bad in law as well as facts on record. The trial Court has failed to appreciate the date of service of summons to the complainant, which was the date of knowledge, not the date of filing of divorce petition and the fact that the FIR was lodged prior to the service of summons of divorce petition. He further submits that it is an admitted fact that Indian women and society

always try to establish better matrimonial relation. Learned trial Court failed to appreciate the letters written by the prosecutrix to her family members regarding the cruelty by the husband, so, the impugned order is liable to be set-aside and all the accused persons are liable to be convicted.

6. In support of his argument learned counsel for the applicant placed reliance in the case of ***Satyajit Banerjee and Others. v. State of W.B. and Others [(2005) 1 SCC 115]***, & ***State of Maharashtra v. Ashok Narayan Dandalwar [(2000) 9 SCC 257]***.

7. On the other hand, learned counsel appearing on behalf of respondents and State supported the impugned order of the Court below and in support of their argument placed reliance in the case of ***Bindeshwari Prasad Singh Alias B.P.Singh and Others v. State of Bihar (Now Jharkhand) and Another [(2002) 6 SCC 650]*** and this Court's order in ***Bandhan Dubey v. Saroj W/o Late Madan Mohan Tiwari & Others [2017 LawSuit (Chh) 650]***.

8. Heard learned counsel for the parties and perused the material on record including the impugned order.

9. Learned trial Court appreciated the oral and documentary evidence in this order from para 10 to 13 and it is clear from Ex. D/1 to Ex. D/68, defence witness No. 1 Ramkeshwar Singh's evidence and applicant's cross-examination that prosecution has failed to prove its case beyond reasonable doubt, on the other hand, accused/respondents were succeeded to prove their defence. So, learned trial Court has rightly acquitted the respondents from the charge. Even otherwise, present is a revision at the instance of complainant where the scope of interference by this Court in the order of acquittal under revisional jurisdiction is limited. In the matter of *Bindeshwari*

Prasad Singh v. State of Bihar and another, 2002 AIR (SC) 2907, the Supreme Court while dealing with the scope of interference in revision against acquittal observed as under:

“13. The instant case is not one where any such illegality was committed by the trial Court. In the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in exercise of its revisional jurisdiction. It has repeatedly been held that the High Court should not reappreciate the evidence to reach a finding different from the trial Court. In the absence of manifest illegality resulting in grave miscarriage of justice, exercise of revisional justification in such cases is not warranted.

14. We are, therefore, satisfied that the High Court was not justified in interfering with the order of acquittal in exercise of its revisional jurisdiction at the instance of the informant. It may be that the High Court on appreciation of the evidence on record may reach a conclusion different from that of the trial Court. But that by itself is no justification for exercise of revisional jurisdiction under Section 401 of the Code of Criminal Procedure against a judgment of acquittal. We cannot say that the judgment of the trial Court in the instance case was perverse. No defect of procedure has been pointed out. There was also no improper acceptance or rejection of evidence nor was there any defect of procedure or illegality in the conduct of the trial vitiating the trial itself. At best the High Court thought that the prosecution witnesses were reliable while the trial Court took

the opposite view. This Court has repeatedly observed that in exercise of revisional jurisdiction against an order of acquittal at the instance of a private party, the court exercises only limited jurisdiction and should not constitute itself into an appellate court which has a much wider jurisdiction to go into questions of facts and law, and to convert an order of acquittal into one of conviction. It cannot be lost sight of that when a re-trial is ordered, the dice is heavily loaded against the accused, and that itself must caution the Court exercising revisional Jurisdiction. We, therefore, find no justification for the impugned order of the High Court ordering re-trial of the appellants.”

10. On the basis of aforesaid discussions, this Court is of the opinion that the trial Court has not committed any illegality while passing the impugned order acquitting respondents of the charge under Section 498(A) read with Section 34 of IPC. The findings recorded by the Court below have been arrived at after due appreciation of the evidence, oral and documentary, available on record and, as such, do not require any interference by this Court.

11. Accordingly, the revision being without any substance is liable to be dismissed and is dismissed as such.

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