

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 79 of 2008**

1. Teerath Prasad S/o Shri Harchhath Rathore aged about 38 years, R/o Village Girvar, P.S. Gaurela, Tahsil- Pendra Road, District- Bilaspur, Chhattisgarh.
2. Harchhath S/o Babloo Rathore aged about 85 years, R/o Village Girvar, P.S. Gaurela, Tahsil- Pendra Road, District- Bilaspur, Chhattisgarh.
3. Basantu Bai W/o Harchhath Rathore aged about 60 years, R/o Village Girvar, P.S. Gaurela, Tahsil- Pendra Road, District- Bilaspur, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh, Through : The P.S. Gaurela, District - Bilaspur, Chhattisgarh.

---- Respondent

For Applicants	: Ms. Sonia Kuldeep, From Legal Aid
For Respondent/State	: Ms. Reena Singh, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****27/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 22.01.2008 passed by the learned Additional Sessions Judge, Pendra Road, District-Bilaspur, in Cr. Appeal No. 38/2007 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Pendra Road, vide its judgment dated 05.10.2007 in Criminal Case No. 89/2003 for the offence under Section 498-A/34 of the IPC and sentenced them to undergo R.I. for 2-2 year with fine of Rs. 100/- - 100/- each, plus default stipulation.

2. Brief facts of the case are that complainant Kunti Rathore made a complaint that till about 3-4 years of marriage the applicant Teerath Prasad (Husband) kept her peacefully and happily. Thereafter, applicant No. 1 and his father-mother (applicant No. 2 and 3), started harassing the complainant

and ill treated on account of demand of dowry. She further stated that since her brother one Sukharam kept a girl of other community (Harijan), therefore, the family of the complainant was ousted by the people of the society/village, because of that reason the accused/applicants started harassing her saying that she belongs to family that comes under below caste and compelled her to leave the house. On 23.10.2002 the applicants/accused persons assaulted complainant on account of dowry and again on 06.11.2002, complainant was treated with cruelty and was expelled from the house. The matter was reported to the police station. After completion of investigation, charge-sheet was filed and charge was framed under Section 498-A/34 by trial Court against the applicants.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 8 witnesses and applicants examined 2 witnesses in their defence. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled 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 05.10.2007, learned Judicial Magistrate has convicted the accused/applicants for the offence under Section 498-A/34 of the IPC and sentenced them to undergo R.I. for 2-2 year with fine of Rs. 100/- - 100/- each, plus default stipulation. This order was appealed by the applicants and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the applicants. Hence, the present revision.

5. Learned counsel for the applicants 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 2003, and thereby more than 17 years have rolled by since then. The applicant No. 2 and 3 are senior citizens and applicant No. 1 is also a 50 years old man. The applicants have already remained in jail for about one month, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon the applicants may be reduced to the period already undergone by them.

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

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 prosecution witnesses Kunti Bai (PW-1), Balaram (PW-2), Ganesiya Bai (PW-3), Mohit (PW-4), Sudhram (PW-5), Bhagwat Dahariya (PW-6), and Ramji (PW-8), which established the involvement of the accused/applicants in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicants under Section 498-A/34 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2003, and further that the applicants had already remained in jail for about one month, therefore, their sentence is liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicants, they are sentenced to the period already undergone by them. The applicants are on bail. Their bail bonds shall stand discharged.

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