

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.31 of 2019

Arising Out of PS. Case No.-1494 Year-2007 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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Nirmala Devi @ Urmila Devi, wife of Devendra Yadav, daughter of Upendra Yadav, resident of village – Ghaghwa Jagdish, P.S. - Tareya Sujan, District – Kushi Nagar (U.P.), at present resident of village- Piprahin, P.S. - Uchakagaon, district – Gopalganj.

... .. Petitioner

Versus

1. The State Of Bihar
2. Devendra Yadav, son of Banshi Yadav.
3. Harendra Yadav, son of Banshi Yadav.
4. Banshi Yadav, son of Late Jangi Yadav.
5. Smt. Buchia Devi, wife of Banshi Yadav
6. Umrawati Devi, wife of Harendra Yadav.
All 2 to 6 are resident of village – Ghaghwan Jagdish, Police Station – Tareya Sujan, District – Kushinagar (U.P.).

... .. Opposite Parties.

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Appearance :

For the Petitioner/s : Mr.Javed Aslam
For the Respondent/s : Mr.Sri Umesh Lal Verma

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

9 14-02-2020 Heard learned counsel for the petitioner and

learned counsel for the State.

Petitioner in the present case is seeking setting aside the order/judgment dated 19.09.2018 passed in Criminal Appeal No. 59 of 2017/CIS No. 59 of 2017 by the learned Additional Sessions Judge – VIII, Gopalganj. By the impugned judgment the appellate court dismissed the appeal preferred by the petitioner against the judgment and order dated 29.06.2017 passed in Complaint Case No. 1494/2007, Trial No. 278 of 2016 by learned A.C.J.M.,



XVI, Gopalganj acquitting the accused persons from the charges under Section 498A of the Indian Penal Code.

Learned counsel for the petitioner has assailed the impugned judgments and submits that both the learned court below have failed to appreciate that admittedly the complainant is legally wedded wife of opposite party no. 2 and the opposite party no. 2 is not keeping her in the matrimonial home and that itself is enough to convict them under Section 498A of the Indian Penal Code.

Learned counsel for the State has opposed this application, as according to him, considering the scope and ambit of the revision application against acquittal, this court need not interfere with the impugned judgments.

Having heard learned counsel for the petitioner and learned counsel for the State and upon perusal of the materials available on the record, this court finds that the learned trial court has examined the entire material on the record. It has been found that at the stage of evidence before charge in the complaint case the complainant – petitioner had brought an independent witness but later on after framing of charge as the trial proceeded, the said



independent witness was not brought. Further learned trial court has noticed huge discrepancy and contradictions in the statements of the complainant and her father who were the only two witnesses produced in course of trial. It has been recorded that while the father of the complainant deposed that his daughter had come to the Maiké 1 ½ months only, the complainant came out with a case that she was left out at the outskirts of the village by the accused persons after beating her. The learned Trial Court also found that after lodgment of the case a piece of land had been registered in the name of the complainant in the year 2008.

Under these circumstances, there being no independent material to corroborate the allegation and even the evidence of the complainant not being of sterling quality sufficient to take a view that the guilt of the accused have been proved beyond all reasonable doubts the learned Trial Court acquitted the accused. The appellate court has found no error in the said order of the learned trial court and this court is of the considered opinion that the kind of materials present on the record do not suggest any perversity in the order passed by the learned court below.



There being no material on the record to hold so,
this Revision Application is dismissed.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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