

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 746 of 2008

- Smt. Padma Duggad W/o Sudhir Duggad, aged about 26 years, R/o Sadar Bazar Raipur, Tahsil & District Raipur (C.G.)

---- Applicant

Versus

1. State of Chhattisgarh Through : Station House Officer, Mahila Police Station, Raipur, District Raipur (C.G.)
2. Sudhir Duggad S/o Chhotelal Duggad, Aged about 40 years, R/o M.I.G. 229, Tatibandh, Raipur (C.G.), Present Address : House No. 115, Saigana Apartment New Parasiya Road, Badodara (Gujarat)

--- Respondents

For Applicant– Shri Ajay Chandra, Advocate.

For State/Respondent No.1 – Shri Sanjay Pathak, Panel Lawyer.

For Respondent No.2 – Shri C.B.Kesharwani, Advocate appointed as amicus curiae.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20-02-2020

Heard.

1. This criminal revision has been brought challenging the legality, propriety and correctness of the judgment dated 17-09-2008 passed in Criminal Appeal No.54/2007 by which conviction against respondent No.2 was upheld, however, the sentence of rigorous imprisonment was set aside and respondent No.2 has been punished only with fine of Rs.5000/-. Prayer has been made for enhancement of sentence against respondent No.2.

2. It is submitted that the applicant is wife of the respondent No.2 and it was her complaint that respondent No.2 used to treat her with cruelty in various manner by beating her, by neglecting her health and also neglecting her food requirement apart from the torture that was given for demand of dowry. Therefore, it was not a simple case in which respondent No.2 should have been let out only with fine sentence. Hence, it is prayed that learned appellate Court has committed error which would amount to illegality in this case wherein it was required that respondent No.2 should have been

appropriately punished.

3. Learned counsel for the State/respondent No.1 opposes and submits that if this Court is inclined to enhance the punishment against respondent No.2, then the State has no objection.

4. Learned counsel/amicus curiae appearing for respondent No.2 submits that the evidence that is present in the record of the trial Court shows that the dispute between the applicant and respondent No.2 had been of simple nature which has been given colour of cruel treatment, therefore, the learned appellate Court has not committed any error in sentencing respondent No.2 only with fine sentence. Hence, the revision petition be dismissed.

5. Heard learned counsel for the parties and perused the record of the Court below.

6. The only question before this Court is regarding gravity of the offence committed by respondent No.2. Padma Duggad (PW-3) has stated that soon after the marriage she was tortured for demand of dowry. Thereafter, when she became ill her treatment was neglected and respondent No.2 also used to beat her very often and therefore, the treatment given to the applicant was of very cruel manner. She has remained constant on this statement in her cross-examination. Her statement was supported by other witnesses, namely, Anamma (PW-1), Sulata Bhaduri (PW-2).

7. Respondent No.2 has not led any evidence in defence except making a plea that he has been falsely implicated.

8. On appreciation of the evidence present it is found that there had been evidence to show as to what nature of cruel treatment was given by respondent No.2 to the applicant in various manners. The learned appellate Court in the impugned judgment has not assigned any reason as to why it was held that respondent No.2 should be punished only with sentence of fine. Therefore, this view and observation of the learned appellate Court is not found to be supported

with any reason, whereas, the evidence show that the applicant was continuously subjected to cruel treatment and harassment by respondent No.2. Therefore, proper sentence of imprisonment in such a case appears to be a necessity. Hence, this revision petition is allowed at the motion stage. The impugned judgment is interfered with. Respondent No.2 is now sentenced with imprisonment of six months R.I. along with fine that has been imposed upon him by the appellate Court, which may be recovered if not already paid. The trial Court is directed to proceed for arresting the respondent No.2 and send him to jail to serve out the sentence of R.I. imposed upon him.

9. The revision petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge