

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1101 of 2018

Arising Out of PS. Case No.-437 Year-1998 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Sobrita Devi D/o Dukhran Rai @ Dukhan Ray, R/o Vill.- Mangrauni, P.S.-
Raj Nagar, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar
2. Sufal Rai S/o Shiv Shankar Rai,
3. Shiv Shankar Rai S/o Late Tanuk Rai,
4. Madhur Devi W/o Shiv Shankar Rai, All R/o Vill.- Veerpur, P.S.- Ladaniya,
District- Madhubani.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Advocate

For the Respondent/s : Mr. Shailendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 12-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. Petitioner in the present case is seeking setting aside of the judgment dated 04.07.2018 passed in Cr. Appeal No. 41 of 2013 whereby and whereunder the learned Additional District and Sessions Judge-VI, Madhubani (hereinafter referred to as the ‘Appellate Court’) has been pleased to set aside the judgment and order dated 19.07.2013 passed by learned Sub-Divisional Judicial Magistrate (S.D.J.M.), Madhubani in Trial No. 3887 of 2013. The learned trial court had awarded a sentence of three months simple imprisonment to the O.P. Nos.2 to 4 for the offence under Section 323 Indian Penal Code, one year simple

imprisonment for the offence under Section 379 Indian Penal Code and two years simple imprisonment with Rs. 1,000/- as fine for the offence under Section 498A Indian Penal Code and in case of default of payment of fine, the accused-O.P. Nos. 2 to 4 were directed to undergo a simple imprisonment of one month.

3. As per the prosecution story, complainant was married to Sufal Rai (Opposite Party No.2). After marriage, the accused persons were demanding Rs. 10,000/- and a buffalo as dowry and on non-fulfillment of the same, she was subjected to torture. The accused persons assaulted her and ousted her from the matrimonial home.

4. It appears that in course of trial, the complainant deposed herself as P.W.1. She has stated that she had no altercation with her husband at any point of time, she was living peacefully with her husband and her husband had not demanded any money or buffalo and never demanded anything else as dowry. The learned Appellate Court has noticed that the P.W.1 had stated in her cross-examination that her father-in-law and mother-in-law had only demanded the amount and buffalo and she had told this matter to her mother's sister but not to anyone else. Her mother's sister, namely, Nirmoda Devi had been examined as D.W.1 and she has denied the total case of the complainant.

5. The learned Appellate Court has further noticed that according to the complainant-P.W.1 she had got treatment after the assault. She claims to have been admitted at hospital in Madhubani for two months but in course of evidence, she did not produce any injury report and no paper of treatment was adduced as evidence. The learned Appellate Court has further noticed that this witness has stated that assault was made only by the father-in-law and mother-in-law but she accepts that she had made the other persons also accused in this case. On perusal of the Appellate Court order, this Court finds that the learned Appellate Court has rightly appreciated the evidences which were brought on the record.

6. In the opinion of this court, the conclusion reached by the learned Appellate Court that appraisal of evidence in this case renders the prosecution case highly doubtful and unreliable, is a correct view and this Court sitting in its revisional jurisdiction need not interfere with the same.

7. There being no perversity with the impugned order passed by the learned Appellate Court, this revision application is dismissed.

(Rajeev Ranjan Prasad, J)

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