

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.776 of 2022

Arising Out of PS. Case No.-5 Year-2009 Thana- THAKURGANJ District- Kishanganj

MD. BARIK @ MD. BARIK ANSARI @ BARIK ANSARI Son of Late
Gulam Rasool @ Late Golam Ansari @ Late Ghulam Rasool @ Gulam
Ansari Resident of Village- Simalbari, P.S.- Powakhali, District- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Diwakar Sinha Mr. Pankaj Kumar Sinha
For the Respondent/s	:	Mr. Ram Priya Sharan Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
C.A.V. ORDER

- 7 07-10-2023 1. Heard learned counsel for the parties concerned.
2. The present revision application has been filed against the judgment and order, dated 01.08.2018, passed, by learned 1st Additional Sessions Judge, Kishanganj, in Criminal Appeal No. 10 of 2017, whereby the learned 1st Additional Sessions Judge, Kishanganj, has partly affirmed the judgment and order, dated 09.06.2017, passed, by learned Sub Divisional Judicial Magistrate, Kishanganj, in G. R. Case No. 24 of 2009/Trial No. 358 of 2017, arising out of Thakurganj (Pauwakhali) Police Station Case No. 05 of 2009.
3. By the judgment and order, dated 09.06.2017, the petitioner has been convicted of the offences punishable



under Sections 323, 341 and 498-A of the Indian Penal Code as well as Sections 3/4 of the Dowry Prohibition Act. For the conviction, under Section 323 of the Indian Penal Code, the petitioner has been sentenced to undergo simple imprisonment for a term of two years and fine of Rs. 5,000/-. For the conviction, under Sections 323 and 341 of the Indian Penal Code, the petitioner has been sentenced to undergo simple imprisonment for a term of six months and one month respectively. For the conviction, under Sections 3 and 4 of the Dowry Prohibition Act, the petitioner has been sentenced to undergo simple imprisonment for a term of six months and fine of Rs. 3,000/- each. In default of payment of fine, he was further sentenced to undergo simple imprisonment for a term of six months. All the sentences were directed to run concurrently.

4. However, the Appellate Court, while affirming the conviction, under Sections 323, 341 and 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, has set aside the conviction and sentence awarded to the petitioner under Section 3 of the Dowry Prohibition Act.



5. Learned Counsel appearing on behalf of the petitioner submits that the petitioner is in custody since 29.08.2022, i.e. for about thirteen months and at this stage, the petitioner does not intend to assail the findings of the conviction concurrently recorded by the two District Courts. He has, however, submitted that considering the long pendency of the criminal case, i.e. for nearly 15 years, this Court may consider reducing the period of sentence to the period of custody, which the petitioner has already undergone.
6. Learned Counsel for the State has acceded to the prayer advanced on behalf of the petitioner.
7. What has emerged from the materials available on record is that the petitioner and informant/P.W. 4 (wife) were married in the year 2007, due to matrimonial dispute between them, the informant-wife filed a complaint before the Thakurganj (Pauwakhali) Police Station in the year 2009 itself and conviction came to be recorded in the year 2017.
8. Taking a holistic view of the matter and taking into consideration the materials available on record, while not interfering with the findings recorded by the District



Courts, in view of the fact that out of the maximum sentence of two years, the petitioner has already undergone about thirteen months of imprisonment, the period of sentence of imprisonment is reduced to the period of custody already undergone by the petitioner. The total amount of fine of Rs. 8,000/-, awarded under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act is also reduced to Rs. 1,000/- under Section 498-A of the Indian Penal Code and Rs. 500/- under Section 4 of the Dowry Prohibition Act.

9. The petitioner is directed to deposit the amount of fine within a period of one month from today, failing which it will have the same consequence as recorded by the learned Trial Court in its judgment and order, dated 09.06.2017.
10. The petitioner is in custody. Let the petitioner be released forthwith if not wanted in any other criminal case.
11. With the aforesaid modification in the sentence, this revision application stands disposed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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