

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.626 of 2022**

Arising Out of PS. Case No.-14 Year-2017 Thana- MAHILA PS District- Aurangabad

NITU DEVI @ NITU KUMARI D/o Rampravesh Prasad , W/o Aman Kumar Mourya Resident of Village - and P.O.- and P.s.- Tandwa, Distt.- Aurangabad,
At present - Village and P.O. - Baligaown, P.S.- Rafiganj, Distt.- Aurangabad.

... .. Appellant/s

Versus

1. The State of Bihar
2. Aman Kumar Mourya Son of Prem Kumar Resident of Village - and P.o.- and P.s.- Tandwa, Distt.- Aurangabad.
3. Manju Devi W/o Prem Kumar Mourya Resident of Village - and P.o.- and P.s.- Tandwa, Distt.- Aurangabad.
4. Prem Kumar Mourya Son of late Ganesh Prasad Resident of Village - and P.o.- and P.s.- Tandwa, Distt.- Aurangabad.
5. Ankita Kumari @ Ankita Mourya D/o Prem Kumar Mourya Resident of Village - and P.o.- and P.s.- Tandwa, Distt.- Aurangabad.
6. Manoj Kumar Son of Late Ganesh Prasad Resident of Village - and P.o.- and P.s.- Tandwa, Distt.- Aurangabad.
7. Reena Devi W/o Manoj Kumar Resident of Village - and P.o.- and P.s.- Tandwa, Distt.- Aurangabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Mishra, Adv.
For the State : Mrs. Anita Kumari Singh, APP
For the respondents No. 2 to 7: Mr. Vyas Kumar Mishra, Adv.

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER**

14 25-04-2024

1. Heard Mr. Sanjay Kumar Mishra, learned counsel for the appellant, Mrs. Anita Kumari Singh, learned APP for the State and Mr. Vyas Kumar Mishra, learned counsel for the respondents No. 2 to 7.

2. The instant appeal has been filed against the judgement and order dated 30.10.2021 passed by learned District & Sessions Judge, Aurangabad in Sessions Trial Case



No. 192 of 2018, arising out of Aurangabad Mahila P.S. Case No. 14 of 2017, by which respondents No. 2 to 7 have been acquitted of the offences punishable under sections 498A, 379, 307 read with section 149 of the Indian Penal Code (in short the IPC) and under section(s) 3 and 4 of Dowry Prohibition Act (in short the D.P. Act) for which they were charged.

3. Learned counsel for the appellant submits that there is ample evidence to prove the charged offences against the respondent No. 2, who happens to be husband of the appellant, as from the beginning of the marriage the said respondent started demanding a car from the wife (appellant) and respondent No.2 and his family members did not agree to perform the ritual of *Sindurdan* at the time of marriage ceremony and became adamant to fulfill their demand of car but anyhow they were convinced and finally the marriage ceremony was completed. Learned counsel further submits that the most important witness of the prosecution PW 4, who happens to be wife of respondent No.2, has fully supported the allegations levelled in the F.I.R. and the evidence of her father, who was examined as PW 5, also corroborates with her evidence.

4. On the contrary, learned counsel appearing for



respondents No. 2 to 7 vehemently opposed the appeal and submitted that amongst the prosecution's witnesses PW 1 to PW 3 turned hostile and they did not support the prosecution's case and the evidences of PW 4 and PW 5 are also not sufficient to substantiate the allegation levelled against respondents No. 2 to 7 and in the evidence before trial court, the informant accepted that there was good relation in between the informant and her husband and also accepted that her husband deposited Rs. 90,000/- in the bank account of her father. He further submits that the informant was recruited in police department in the year 2017 but the said fact was intentionally not disclosed and in order to prove the informant's employment sufficient documentary evidence was given by the respondents which has been discussed in the impugned judgement.

5. Heard the parties, perused the judgement impugned and the evidences available on the case record.

6. In the instant matter, the most important witness of the prosecution is informant, who was examined as PW 4. She deposed in her examination-in-chief that her husband and his family members tortured her over demand of a vehicle and in this regard, a written complaint was given to Superintendent of Police and thereafter her husband was called at Mahila P.S. and



the S.H.O. of Mahila P.S. directed her husband to execute a bond to keep the informant in well manner and thereafter the informant was taken by him however respondent No.2 and his family members again started torturing her particularly after birth of a female child. But in respect of this allegation, the prosecution did not bring any cogent material concerned to the execution of the bond as well giving written application by the informant before the Superintendent of Police and moreover, in paragraph No.3 of the examination-in-chief, the informant did not disclose the particular period, date and time regarding the commission of the said occurrence, so the said allegation made by her is completely vague. In the cross-examination, the informant stated that her in-laws started torturing her just after her marriage and she did not inform the police about the conduct of her in-laws. She further deposed that there was good relation in between her and her husband which resulted in birth of a female child. She further deposed in paragraph No. 10 of her cross-examination that at her request her husband deposited Rs. 90,000/- in the bank account of her father. This evidence clearly shows that there was good relation in between the informant and her in-laws including the husband. Here it is important to mention that as per respondents, the informant was



selected in police department on the post of Constable in the year 2017 and on this fact, the informant was cross-examined and in paragraph No. 13 of the cross-examination she denied her selection in the police department but in order to rebut the submission of the informant the respondents produced Exhibit-A showing the details of the salary of the informant concerned to her Government employment and an information was also obtained by the respondents under Right to Information Act regarding the list of selected Constables which was also produced by the respondents and the same was marked as Exhibit-A and these documentary proofs were not disputed by the prosecution. Further more, three prosecution witnesses, PW 1, PW 2 and PW 3 turned hostile and none of them supported the prosecution's case. PW 5, who happens to be father of the informant, deposed in his cross-examination that after the marriage, respondent No.2 started demanding a vehicle from his daughter but in this regard, no information was given to the P.S. concerned and the said conduct of the informant's father also goes against the prosecution's allegation. He further deposed in paragraph No. 20 of his cross-examination that he did not reveal the fact of paying Rs. 90,000/- to him by respondent No.2 before the police.



7. In view of above discussed facts and evidences coming out as well as materials available on the case record, this court forms the opinion that the prosecution miserably failed to prove the alleged offences before the learned trial court which has rightly acquitted the respondents No. 2 to 7 of the alleged offences for which they were charged.

8. This court finds no merit in the instant appeal and it stands dismissed.

(Shailendra Singh, J)

BKS/-

U		T	
---	--	---	--

