

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.650 of 2016

Arising Out of PS. Case No.-382 Year-2004 Thana- FORBESGANJ District- Araria

Manoranjana Kumar Sinha @ Manoranjana Kumar son of Surya Narayana
Mandal resident of Village-Bairiya, P.S. Tikapatti Rupauli, District Purnia

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate Md. Farooq, Advocate
For the State	:	Dr. Ajeet Kumar, A.P.P.
For the Respondents	:	Mr. Arun Kumar Mandal, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 08-02-2024 Heard learned advocate on behalf of the petitioner and
learned A.P.P. for the State as well as learned advocate on behalf
of the respondents.

2. The petitioner is the husband of one Neelima Kumari. Their marriage was solemnized on 23.04.2004. According to the written complaint filed by the father of the wife of the petitioner, immediately after marriage the petitioner and his family members started demanding 20 bhar gold and one Tata Sumo Car as dowry. The daughter of the informant narrated the said incident to her father then the father-in-law of the petitioner, i.e. the informant brought her daughter back to his house and since then she was residing at her paternal home.

3. The case of the petitioner as revealed from the



specific defence taken by him that his wife stayed at her matrimonial home only about 2-3 days. Subsequently, at the intervention of some local people including one Tek Nath Jha and Surya Narayan Mandal and others, the informant was advised to settle the dispute between the petitioner and his wife amicably out of Court. Accordingly, the informant along with his daughter i.e. the wife of the petitioner, son, daughter-in-law (sons wife) went to Farbisganj for amicable settlement. Tek Nath Jha being the Principal of a Coaching Centre proposed the informant and others to hold the meeting for settlement in his coaching centre. Be it mentioned here that the petitioner is a teacher of the said coaching centre. When the informant and his daughter and other family members went to the coaching centre for amicable settlement of the dispute between the petitioner and his wife, they were taken to a room where there were 15-20 students. Immediately the said students started to assault the daughter of the informant, causing injury. The informant, wife of the petitioner and other family members somehow left the place and lodged a complaint in Farbisganj police station, on the basis of which Farbisganj P.S. Case No. 382 of 2004 was registered under Sections 341, 342, 379, 323, 325, 498A of the Indian Penal Code, against Tek Nath Jha, Soni Kumari @



Sushmita who is one of the teachers of the said coaching centre and the present petitioner and other family members of the petitioner.

4. During trial prosecution examined seven witnesses, amongst them PW-1 and PW-2 turned hostile. Remaining witnesses are the family members of the informant. PW-6 is the informant and father of the petitioner, PW-3 is the brother of the wife of the petitioner, PW-4 is the wife of the petitioner, PW-5 is the sister-in-law of the wife of the petitioner (Bhabhi) and PW-7 is the doctor attached to the Referral Hospital, Farbisganj at the relevant point of time. The Trial Court on due consideration of the evidence on record held petitioner Manoranjan Kumar guilty for committing offence under Section 498A, 341, 342, 323, 120B of the Indian Penal Code. The petitioner was accordingly convicted and sentenced to simple imprisonment for two years for committing offence under Section 498A of the I.P.C., 15 days for committing offence under Section 341 of the I.P.C., six months for committing offence under Section 342 of the I.P.C., six months for committing offence under Section 323 of the I.P.C. and three months for committing offence under Section 120B of the I.P.C. along with fine of Rs.2,000/-.

5. The petitioner assailed the judgment and order



conviction and sentence passed by the Trial Court in Criminal Appeal No.22 of 2013 before the learned Additional Session Judge-II, Araria. The learned Judge on re-appreciation of evidence dismissed the appeal and confirmed the order of conviction and sentence.

6. Challenging the said order of conviction and sentence, the petitioner has preferred the instant revision.

7. I have heard the learned advocate for the petitioner as well as the learned A.P.P. for the State.

8. I have also carefully perused the evidence on record.

9. It is needless to say that sitting in revisional jurisdiction, this Court is not in a position to apprise the evidence on record afresh, the jurisdiction of this Court is limited to consider as to whether the finding made by the Trial Court and consequently sentence which has been affirmed by the Court of Appeal, suffers from any illegality or material irregularity.

10. From the evidence on record it appears that the wife of the petitioner stayed at her matrimonial home after her marriage only 10-15 days. Thereafter, she returned her paternal home and informed her father that the petitioner and her family



members are demanding dowry to the tune of 20 bhars of gold ornament and a Tata Sumo car. The informant expressed his inability to deliver the said ornament and car. It was informed to the petitioner and his family members. Thereafter, the parties wanted to settle the dispute after a lapse of about seven months on 15.11.2004 when one Tek Nath Jha on the advice of Surya Narayan Mandal proposed to hold a meeting for settlement of the dispute between the husband and wife in his coaching centre.

11. From the F.I.R. as well as evidence of the PW-4 who is wife of the petitioner. It is ascertained that when they entered into the coaching centre 15-20 students, few of them named and others unnamed in the F.I.R., assaulted the wife of the petitioner and her Bhabhi.

12. The said fact was corroborated by the witnesses who are near relatives of the informant as well as wife of the petitioner.

13. Section 498A of the I.P.C. has been inserted in the Court by an Amendment Act of 1983 with effect from 25.12.1983 in Chapter-XXA. This chapter relates to the offence of cruelty by husband or relatives of husband under Section 498A 'cruelty' means:-



“(a) any willful conduct which is of such a nature as is likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical of the women);

(b) harassment of the women, where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to make such demand.”

14. On perusal of the F.I.R., it is ascertained that the prosecution tried to bring the case of cruelty under explanation (b) of section 498A of the I.P.C. The sum and substance of the F.I.R. is that the daughter of the informant was subjected to harassment on unlawful demand of valuable property, i.e., 20 bhars of gold ornament and a Tata Sumo Car.

15. The question which arises at this stage is as to whether there is any specific evidence on record against the petitioner and the family members of the husband of the daughter of the informant. Except the oral evidence that the husband and other family members of the matrimonial home of the daughter of the informant demanded gold ornaments and Tata Sumo car, there is no evidence of harassment perpetrated



either by the petitioner or his family members. The daughter of the informant was reportedly harassed by the students of the coaching centre, the said students of the coaching centre cannot be booked for committing offence under section 498A of the I.P.C. It is held by the Hon'ble Supreme Court in the case of ***Manju Ram Kalita Vs. State of Assam*** reported in **(2009) 13 SCC 330** that in order to established charge under Section 498A of the I.P.C. the prosecution is required to established that the women has been subjected to cruelty continuously and persistently or at-least in close proximity of time of lodging of complaint. Petty quarrel cannot be termed as cruelty to attract the provision under Section 498A of the I.P.C. In the present case admittedly, the wife of the petitioner stayed at her matrimonial home for about 10-15 days after her marriage. During this time, it is alleged that the petitioner and his family members demanded further dowry. Neither the Trial Court nor the Court of Appeal considered that it is not possible to commit cruelty consistently and persistently by the petitioner during her initial stay of 10-15 days by her husband and other matrimonial relations. Subsequently, she left her matrimonial home. Therefore, the petitioner did not get any opportunity to cause harassment on demand of dowry to his wife. Only on



15.11.2004 during a settlement drive, the victim was reportedly assaulted by the students of a coaching centre. The assailants not being the family members of the petitioner and no direct evidence is forthcoming against the petitioner of physical assault on demand of dowry upon his wife, the petitioner cannot be held to be liable for committing offence under Section 498A of the I.P.C.

16. This Court is of the view that the Trial Court as well as the Court of Appeal was wrong in holding the petitioner guilty for committing offence under Section 498A of the I.P.C.

17. With regard to the charge under Section 341 and 342 of the I.P.C. prosecution is under obligation to prove the ingredients of wrongful restrain and wrongful confinement as defined in Section 339 and 340 of the I.P.C. There is absolutely no evidence against the petitioner that the informant, his daughter, daughter-in-law and the son were wrongfully restrained or confined in a room of the coaching centre by the petitioner. On the contrary, the evidence shows that they entered into the said coaching centre voluntarily on the proposal of Tek Nath Jha for a meeting for amicable settlement of the matrimonial dispute. There is absolutely no evidence that the defacto complainant and his family members were wrongfully



restrained or confined inside the coaching centre. On the contrary, it is the case of the prosecution that when they entered into the room of the coaching centre, some students assaulted them. Immediately, after assault they left the place. The evidence on record is absolutely silent on the issue that the petitioner conspired with the students of the coaching centre to assault them. For the assault inflicted upon the wife of the petitioner by the students of the coaching centre, the petitioner cannot be held liable under Section 341, 343, 323 of the I.P.C.

18. The Trial Court also did not consider that the injured persons did not state the names of the assailant or the history of injury to the medical officer who medically treated them immediately after the occurrence.

19. For the reasons stated above, I am of the view that the judgment and order of conviction and sentence passed by the Trial Court in G.R. No. 1905 of 2004/Tr. No.2799 of 2013 and affirmed by the Court of Appeal cannot be sustained. Therefore, the judgment and order of conviction and sentence dated 30.03.2016 passed in G.R. No. 1905 of 2004/Tr. No.2799 of 2013 and the order of the Appellate Court are quashed and set aside.

20. The petitioner is acquitted of the charge set at



liberty and released from the bail bonds.

21. The instant revision is accordingly allowed on contest.

22. Let a copy of this order be sent down to the Court below along with the Lower Court Records.

(Bibek Chaudhuri, J)

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