

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 608 of 2019

Arising Out of PS. Case No.-189 Year-2001 Thana- MIRGANJ District- Gopalganj

1. Rani Gupta Wife of Prakash Chandra Gupta Resident of Purab Mohalla, Mirganj, Ward No.11, Kharpakwa,P.S.-Mirganj,District-Gopalganj.
2. Urmila Gupta @ Rachana Kumari Wife of Mukesh Kumar Resident of House No.1, Indrapuri Road, P.S.-Sukhdev Nagar, Ratu Road, Hehal,District- Ranchi, Jharkhand-834005.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rita Keshri Wife of Udaychand Gupta Resident of Village and P.O-Mirganj, District-Gopalganj.

... .. Respondent/s

WITH
CRIMINAL REVISION No 810 of 2019

Arising Out of PS. Case No.-189 Year-2001 Thana- MIRGANJ District- Gopalganj

Prakash Chandra Gupta Son of Late Jagarnath Prasad Resident of Mohalla - Mirganj, Ward No. 11, Kharpakwa, P.S- Mirganj ,Distt - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rita Keshri Wife of Udaychand Gupta Resident of Village - and P.O - Mirganj, P.S- Mirganj,Distt - Gopalganj.

... .. Respondent/s

Appearance :

(In Criminal Revision No 608 of 2019)

For the Petitioner/s : Mr Y V Giri, Sr Advocate with
M/s Pranav Kumar, Shrishti Singh, Advocates

For the Respondent/s : Mr Anand Mohan Prasad Mehta, APP

(In CRIMINAL REVISION No. 810 of 2019)

For the Petitioner/s : Mr Y V Giri, Sr Advocate withdraw
Mr A Giri, Advocate

For the Respondent/s : Mr Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

CAV JUDGMENT

Date : 12-08-2024

Since both the revision petitions have been preferred by
the petitioners against the judgment dated 29.03.2019 passed by



learned Additional Sessions Judge, FTC I, Gopalganj in Criminal Appeal No 21 of 2011 affirming the judgment of conviction dated 10.05.2011 passed by the learned Assistant Sessions Judge I, Gopalganj in ST No 264 of 2001, the same are being decided by this common order.

2 The learned Assistant Sessions Judge I, Gopalganj vide his judgment dated 10.05.2011 convicted the petitioners in both the revision petitions for the offence punishable under Sections 498A, 342 of the IPC and Section 4 of Dowry Prohibition Act and sentenced them to rigorous imprisonment for two years, three months and three months respectively which has also been affirmed by the learned Additional Sessions Judge, FTC I, Gopalganj vide his judgment dated 29.03.2019.

3 According to the case of the prosecution, marriage between complainant Rita Keshri was solemnized with one Udaichand Gupta about 15 years ago. Prakash Chandra Gupta, petitioner in Criminal Revision No 810 of 2019 is brother-in-law of the informant and Rani Gupta and Urmila Gupta, both petitioners in Criminal Revision No 608 of 2019 are the sisters-in-law (Bhabhi and married Nanad respectively) of the complainant. Jagarnath Prasad Gupta and Radhika Devi were the father-in-law and mother-in-law respectively of the complainant who died



during the course of trial. It was the further case of the prosecution that after the marriage, complainant was tortured by the in-laws and they also ill treated her on account of demand of dowry. The husband of the complainant was residing and working at Nainital. Allegedly, two years ago, father-in-law of the complainant said the complainant to ask her father to give him a shop at Mirganj. Since the father-in-law of the complainant owned a shop at Mirganj, therefore, she refused to communicate his demand to her father. Resultantly, all the accused persons started ill treating the complainant as their demand has not been fulfilled. It is further alleged that they also threatened the complainant that they will kill the complainant by pouring kerosene oil on her body. Allegedly, on 01.07.2001 at 4 pm, all the accused persons assaulted the complainant and her son and even after information given to the police, no action was taken. Again, on 04.07.2001 about 7 pm, all the accused persons caught hold the complainant and sprinkled petrol on her body. When she cried then her son came there and neighbours also reached there and saved the complainant. Thereafter, the complaint was made by the complainant before the CJM, Gopalganj which was sent by the CJM to the concerned police for taking action under Section 156 (3) of the Cr P C. Resultantly, FIR has been registered and after



completion of investigation, charge sheet has been submitted under Sections 342, 307/34, 498A of the IPC and Sections 3/4 of Dowry Prohibition Act. The learned trial Court framed the charges.

4 In order to prove its case, the prosecution has examined as many as seven witnesses. In their statements recorded under Section 313 of the Cr P C, all the petitioners herein denied the allegations made against them and pleaded their innocence. However, no defence witness has been examined by the petitioners. After conclusion of trial, the learned trial Court convicted and sentenced all the petitioners for the aforementioned offence, as stated earlier which has also been affirmed by the learned Sessions Judge.

5 Learned counsel for the petitioners, in both the petitions, submitted that the learned trial Court, without appreciating the evidence available on record, wrongly convicted the petitioners as there are many contradictions, omissions occurred in the statements of witnesses which have not been considered by the learned trial Court. While affirming the judgment of conviction, the learned appellate Court has also not considered them. It is further argued by the learned counsel that both the Courts below also did not consider the fact that allegation of demand of dowry and cruelty for this purpose have started after



15 – 16 years of the marriage which appears to be suspicious. He further submits that as there was family dispute between the husband of the complainant and other family members and the husband of the complainant was residing separately at Nainital, due to that family dispute, false and fabricated complaint was made by the complainant which has also not been duly considered by both the Courts below. It is further argued by the learned counsel that the learned trial Court itself arrived at the conclusion that the incident with regard to the pouring of petrol on complainant and trying to set her on fire is suspicious then the trial Court ought to have arrived at the conclusion that the entire prosecution case is doubtful. But this has not been considered by the trial Court as well as the appellate Court. Therefore, all the accused persons are entitled to get their acquittal as no offence has been proved against them beyond any reasonable doubt.

6 Learned counsel for the State as well as opposite party No 2 supported both the judgments passed by the Courts below and submitted that considering the entire evidence available on record, the learned trial Court rightly convicted the petitioners which has been duly affirmed by the learned appellate Court.

7 I have heard learned for the parties and perused the evidence adduced by the parties before the trial Court and also



gone through the statements of the witnesses recorded by the trial Court.

8 Undisputedly, after 17 – 18 years of the marriage, for the first time, this complaint has been made by the complainant wherein she made allegation regarding demand of dowry and ill treatment done by the petitioners to her on account of non-fulfillment of their demand. Prior to alleged incident of 04.07.2001, why any complaint or report was not made to the police, it has not been explained by the complainant. Undisputedly, husband of the complainant was residing at Nainital. If such type of incidents were done with the complainant then firstly, it was informed by her to her husband but it was never done by the complainant nor husband of the complainant has been made a witness by the prosecution in this case.

9 According to the Court statement of complainant, on the date of incident, i e, 04.07.2001, all the accused persons started marpit with her and also sprinkled petrol on her body then her son and neighbours reached there and saved her. She further stated in her statement that thereafter, she went to her *Maike* along with her brother, i e, Kishun Prasad. However, PW 1 Kishun Prasad has deposed that when he reached the spot, at that time, the complainant was lying there unconscious and she was taken by



them to the Hospital and there she regained consciousness. As per the statement of PW 2 Pawan Kumar, son of the complainant, at the time of incident, he telephonically informed his Mama, i.e., PW 1 then only PW 1 came to the spot but PW 1 has not supported the statement of PW 2 rather he says that on hearing noise, he reached at the spot.

10 During cross-examination, the complainant admitted the fact that her husband is residing at Nainital and there he is doing agricultural works. She further admitted that the land, which is being cultivated by her husband has been given to him by her father-in-law. She further admitted the fact that there was already a shop of her father-in-law at Mirganj. In paragraph 16 of her cross-examination, she categorically admitted that she never informed her husband about this incident. The above conduct of the complainant is not a natural conduct. Other witnesses, who were examined by the prosecution are the neighbours and though they have supported the case of the prosecution but they were unable to state anything regarding any overt act committed by any of the accused persons. Only general allegations were made by them.

11 Perusal of the entire evidence adduced by the prosecution, as discussed above, clearly shows that material



contradictions and omissions occurred in the statements of witnesses. Further, after the incident and prior to the incident also, the complainant never informed her husband regarding any cruelty for demand of dowry which also appears to be suspicious. Other witnesses have made general allegations against the accused persons but they are not able to state any overt act committed by the accused persons at the time of incident. Further, the trial Court arrived at the conclusion that the incident of pouring petrol on the body of the complainant is suspicious and on this ground alone, the trial Court acquitted the accused persons for the offence punishable under Sections 307/34 of the IPC. Then on the same set of evidence, conviction of the petitioners for the offence punishable under Sections 498A, 342 of the IPC and Section 4 of Dowry Prohibition Act is not sustainable which has also not been considered by the appellate Court while deciding the appeal.

12 Resultantly, I find that entire case of the prosecution appears to be doubtful and petitioners in both the revision petitions are entitled to get the benefit of doubt.

13 In the result, both the revision petitions are allowed. The judgment of conviction passed by the learned trial Court as well as the judgment of affirmance passed by the learned appellate Court are hereby set aside.



14 Petitioners are acquitted for the charge punishable under Sections 498A, 342 of the IPC and Section 4 of the Dowry Prohibition Act giving them the benefit of doubt.

15 Both the revision petitions are allowed.

(Arvind Singh Chandel J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	20.07.2024
Uploading Date	12.08.2024
Transmission Date	12.08.2024

