

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.168 of 2022**

Arising Out of PS. Case No.-103 Year-2002 Thana- BUXAR MUFFSIL District- Buxar

Basant Kumar Son Of Moti Chand Ram, Resident Of Village - Manoharpur,
P.S. Dinara, District - Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kanchan Kumari wife of Tileshwar Prasad, Resident of Village - Rasen,
P.S.- Rajpur, District - Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Singh, Advocate Mr. Anant Kumar Pandey, Advocate
For the State	:	Mr. Mohammad Sufyan, APP
For the Resp. No.2	:	None

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT**

Date : 25-07-2025

The petitioner and State were heard on the last date itself. But on the last date, nobody was present on behalf of Respondent No. 2. Hence, the matter was adjourned for today affording opportunity to Respondent No.2 to make submission. However, even today nobody is present on behalf of Respondent No.2.

Introduction

2. The present criminal revision petition has been preferred by the petitioner against the impugned judgment of conviction and order of sentence dated 07.12.2021 passed by learned Additional Sessions Judge-VII, Buxar, in Criminal



Appeal No. 61 of 2018, whereby learned appellate court below has upheld the judgment of conviction and order of sentence dated 10.07.2018 passed by learned Sub-Divisional Judicial Magistrate, Buxar, in Buxar Muffasil P.S. Case no. 103 of 2002 dated 13.05.2002, corresponding to G.R. Case No. 676 of 2002, whereby the petitioner was found guilty under Section 498A, 323 of Indian Penal Code and Section 4 of Dowry Prohibition Act, and was sentenced to R.I. for three years and a fine of Rs. 5000/- under Section 498A of the Indian Penal Code and on default to pay the fine, S.I. for six months and he was further sentenced to R.I. for one year and fine of Rs.1,000/- and on default to pay the fine, additional S.I. for one month under Section 323 Indian Penal Code, whereas under Section 4 of the D.P. Act, he was sentenced to R.I. for six months with fine of Rs.5,00/- and on default to pay the fine, additional S.I. for 15 days. All the sentences were directed to run concurrently.

Factual Background

3. The prosecution case as emerging from the F.I.R. is that the marriage of the daughter of the informant was solemnized with the petitioner in November 1997 after taking dowry of Rs. 30,000/-. It is further alleged that even one day before the marriage, demand of motorcycle and color T.V. was



made by petitioner towards dowry. However, somehow with mediation, marriage was solemnized, but after marriage, demand for motorcycle and color T.V. was reiterated. After the marriage, the informant's daughter joined the matrimonial home of the petitioner and she was treated well for few days, but soon thereafter the pressure was exerted by the petitioner for fulfillment of the demand of motorcycle and color T.V. and on account of non-fulfillment of the same, the daughter of the informant was harassed by the petitioner. It is further alleged that the daughter of the informant got pregnant in the beginning itself and she gave birth to a female child.

4. However, it was alleged that the daughter of the informant was carrying illegitimate pregnancy. Hence, the informant's daughter suffered mental cruelty. Despite mediation, the petitioner did not stop harassing the victim. Ultimately, in 1998 informant's daughter was ousted from the matrimonial home. Her jewelry and clothes were snatched. She was got seated in Howra bound train, where informant/father of the victim was working. Subsequently, the informant met the petitioner and requested him to treat his daughter well. However, such request fell on deaf ear. On 17.02.2002, the petitioner finally refused to keep the daughter of the informant



in his house, alleging that the she is a characterless lady.

5. In the course of trial, prosecution has examined following witnesses: (i) **P.W.-1**, Kanchan Kumar @ Chaya Devi, who is the alleged wife of the petitioner and victim herself, (ii) **P.W.-2**, Rajdhani Prasad, who is informant and father of the victim/Kanchan Kumari, (iii) **P.W.-3**, Gorakhnath Yadav, who is co-village of the informant, (iv) **P.W.-4**, Ashok Kumar, who is son of the informant and brother of the victim.

6. The FIR is exhibited as **Ext. 1**.

7. The accused-petitioner has also examined four witnesses in his defence. **D.W.-1**, Sharda Devi, who is sister of the accused-petitioner, **D.W.-2**, Narendra Ram, who is brother-in-law of the accused-petitioner, **D.W.-3**, Shivmuni Ram, who is brother of the accused-petitioner and **D.W.-4** is petitioner herein/accused himself.

8. The following documents were also exhibited in course of evidence on behalf of the accused-petitioner: (i) **Ext. A** – Order-sheet of Matrimonial Case No. 262 of 2001, pending in the Family Court, Patna, (ii) **Ext. B** – Ex-parte order passed in Matrimonial Case No. 262 of 2001, (iii) **Ext. C** – Decree in Matrimonial Case No. 262 of 2001.

9. The following documents were also marked for



identification : (i) **X** – Letter of Telecast and Broadcasting Officer, Prasar Bharti. (ii) **X1**– A paper signed by Ashok Kumar and Chaya Kumari where something written, (iii) **X2** and **X3** – A letter by Chaya Kumari to her father and brother.

Findings of the Trial Court

10. After trial, learned Trial Court found the petitioner guilty under Section 498A and 323 of the Indian Penal Code and Section 4 of D.P. Act, but acquitted him of the charge under Section 3 of D.P. Act.

Findings of the Appellate Court

11. Even Criminal Appeal filed by the petitioner against the judgment of conviction and order of sentence was dismissed, upholding the conviction of the Petitioner and the sentence awarded against the Petitioner, and, hence, the present petition has been filed.

Submission on behalf of the petitioner

12. I heard learned counsel for the petitioner and learned APP for the State.

13. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He has been erroneously convicted by learned Trial Court as well as learned Appellate Court below on account of perverse



appreciation of evidence.

14. He further submits that as a matter of fact, the present criminal case was filed by the informant/wife only as a counter blast to the divorce petition bearing Matrimonial Case No. 262 of 2001 filed by the Petitioner/husband in the Court of learned Principal Judge, Family Court, Patna, on account of adulterous life of his wife and the same has been even allowed ex-parte vide judgment and decree dated 15.03.2010.

15. He further submits that even as per the F.I.R., there is no specific allegation made against the petitioner. The allegation against the petitioner is general and omnibus in nature without any reference to time, place and nature of the cruelty.

16. He further submits that even as per admission in the course of trial, informant-wife has stated that she even re-married in the year 2008 with one Tileshwar Prasad.

17. He also submits that under revisional jurisdiction, this Court has limited jurisdiction to interfere in the impugned judgment. The revisional Court can not re-appreciate the evidence on record to supplant the view of the court below by its own. If the view adopted by the court below is legally possible or plausible, the revisional Court can not interfere in the impugned judgment of conviction and order of sentence.



18. However, learned APP for the State defends the impugned judgment of conviction and order of sentence submitting that there is no illegality and infirmity in it and present petition is liable to be dismissed.

19. Nobody turned up on behalf of Respondent No.2, despite sufficient opportunity, to advance submission on behalf of the Respondent No. 2.

20. I considered the submissions advanced by both the parties and perused the materials on record.

Extent and Scope of Revisional Jurisdiction of the High Court

21. Before I proceed to consider the rival submission of the parties, it is desirable to see the extent and scope of revisional jurisdiction of High Court. As per the statutory provisions and judicial precedents, it is settled principle of law that the revisional jurisdiction conferred upon the High Court is a kind of paternal or supervisory jurisdiction under Section 397 read with Section 401 Cr.PC in order to correct the miscarriage of justice arising out of judgment, order, sentence or finding of subordinate Courts by looking into correctness, legality or propriety of any finding, sentence or order as recorded or passed by subordinate Courts and as to the regularity of any proceeding of such inferior Courts.



22. However, the exercise of revisional jurisdiction by the High Court is discretionary in nature to be applied judiciously in the interest of justice.

23. Under revisional jurisdiction, the High Court is not entitled to re-appreciate the evidence for itself as if it is acting as a Court of appeal, because revisional power cannot be equated with the power of an Appellate Court, nor can it be treated even as a second appellate jurisdiction. Hence, ordinarily, it is not appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Trial and Appellate Court, unless there are exceptional situations like glaring error of law or procedure and perversity of finding, causing flagrant miscarriage of justice, brought to the notice of the High Court. Such exceptional situations have been enumerated by Hon'ble Apex Court on several occasions which are as follows:-

(i) when it is found that the trial court has no jurisdiction to try the case or;

(ii) when it is found that the order under revision suffers from glaring illegality or;

(iii) where the trial court has illegally shut out the evidence which otherwise ought to have been considered or;



(iv) where the judgment/order is based on inadmissible evidence, or;

(v) where the material evidence which clinches the issue has been overlooked either by the Trial Court or the Appellate Court or;

(vi) where the finding recorded is based on no evidence or;

(vii) where there is perverse appreciation of evidence or;

(viii) where the judicial discretion is exercised arbitrarily or capriciously or;

(ix) where the acquittal is based on a compounding of the offence, which is invalid under the law.

24. However, it has been cautioned by Hon'ble Supreme Court that the aforesaid kinds of situations are illustrative and not exhaustive.

25. Here, one may refer to the following judicial precedents:

(i) Akalu Ahir and Ors. vs Ramdeo Ram
(1973) 2 SCC 583

(ii) K. Chinnaswami Reddy vs State of A.P.
1962 SCC Online SC 32

(iii) Duli Chand Vs Delhi Administration
(1975) 4 SCC 649

(iv) Janta Dal Vs H.S. Chowdhary & Ors.
(1992) 4 SCC 305



- (v) Vimal Singh Vs Khuman Singh & Anr.
(1998) 7 SCC 323
- (vi) State of Kerala Vs. Puttumana I. J. Namboodiri
(1999) 2 SCC 452
- (vii) Thankappan Nada & Ors. Vs. Gopala Krishnan
(2002) 9 SCC 393
- (viii) Jagannath Chaudhary Vs. Ramayan Singh
(2002) 5 SCC 659
- (ix) Bindeshwari Prasad Singh @ B.P. Singh & Ors.
Vs. State of Bihar (Now Jharkhand) & Anr.
(2002) 6 SCC 650
- (x) Manju Ram Kalita v. State of Assam
(2009) 13 SCC 330
- (xi) Amit Kapoor v. Ramesh Chander
(2012) 9 SCC 460
- (xii) Ganesha Vs. Sharanappa & Anr.
(2014) 1 SCC 87
- (xiii) Shlok Bhardwaj v. Runika Bhardwaj & Ors.
(2015) 2 SCC 721
- (xiv) Sanjaysinh R. Chavan Vs. D. G. Phalke
(2015) 3 SCC 123
- (xv) Malkeet Singh Gill v. State of Chhattisgarh
(2022) 8 SCC 204

Present Case

26. Now coming to the case on hand, I find that the charge under Section 3 of D.P. Act for giving or taking dowry could not have been proved by the prosecution and hence, learned Trial Court has acquitted the petitioner of the charge under Section 3 of D.P. Act. However, the petitioner was found guilty by learned Trial Court under Section 4 of D.P. Act and Sections 498A and 323 of the Indian Penal Code and this finding has been upheld even by learned Appellate Court below.



27. However, from perusal of the evidence on record, I find that there is no specific allegation regarding demand of dowry with specific reference to place, day and time. The allegation against the petitioner is general and omnibus. Even the ingredients of Sections 498A and 323 of the Indian Penal Code are not made out as per the prosecution evidence on record. No injury report is on record and the informant herself has admitted that she did not get any medico legal examination of any alleged hurt caused by the petitioner.

28. For offence under Section 498A of the Indian Penal Code, there must be willful conduct of the accused which is of such a nature which is likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or health or alternatively, there must be harassment of the women by the accused with intent to coerce her or any of her relative to meet any unlawful demand for any property or valuable security or such harassment has been made on account of her failure or failure of her relative to meet such unlawful demand. But again I find that there is no sufficient proof to show that there was demand of dowry by the petitioner, nor is any such willful conduct on the part of the petitioner which could have driven the daughter of the informant to commit suicide or to cause



grave injury or danger to life, limb or health.

29. From the totality of the evidence on record, it appears that the marriage between the petitioner and the daughter of the informant started running into rough weather on account of allegation of adultery by the petitioner against his wife. Even, divorce petition was filed by the petitioner against his wife in the year, 2001 and subsequently, the present criminal case was filed against the petitioner by his father-in-law on behalf of this daughter. Subsequently, even divorce has been granted to the petitioner against his wife, who later on even entered into second marriage with one Tileshwar Prasad in the year, 2008 as per admission in her deposition.

30. Considering the aforesaid facts and circumstances, I find that the prosecution has failed to prove its case against the petitioner beyond all reasonable doubts. However, on account of perverse appreciation of evidence, the learned Trial Court as well as learned Appellate Court have erroneously convicted the petitioner and sentenced him. As such, the impugned judgment of conviction and order of sentence are liable to be set aside under the revisional jurisdiction of this Court.

31. Accordingly, the present petition is allowed, setting aside the impugned judgment of conviction and order of



sentence passed by learned Trial Court as well as learned Appellate court, acquitting the petitioner of all the charges.

32. The bail bond of the petitioner stands discharged.

33. Let Lower Court Records along with a copy of this order be sent back to the Court concerned.

(Jitendra Kumar, J.)

ravishankar/Shoaib

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	26.07.2025.
Transmission Date	26.07.2025.

