

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.509 of 2019

Arising Out of PS. Case No.-1064 Year-2010 Thana- BUXAR COMPLAINT CASE District-
Buxar

-
1. Jai Kishor Chaudhary Son of Raj Kumar Chaudhary Resident of Village-Banarpur, Police Station-Buxar (N), District- Buxar.
 2. Raj Kumar Chaudhary Son of Ram Nath Chaudhary Resident of Village-Banarpur, Police Station- Buxar (N), District- Buxar.

... .. Petitioners

Versus

1. The State of Bihar
2. Silam Kumari W/o Jai Kishore Chaudhary At present resident of Mohalla-Mallah Toli, Police Station- Buxar (Town), District- Buxar.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Rajeev Ranjan, Advocate Mr. Manish Rai Sharma, Advocate
For the State	:	Md. Ataur Rahman, APP
For the O.P. No.2	:	None.

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

10 28-01-2025 The present revision petition has been preferred by the petitioners against the impugned judgment and order dated 18.12.2018 passed by learned Fast Track Court-I, Buxar in Cr. Appeal No. 08 of 2017 whereby the judgment of conviction of the petitioners have been upheld but the sentence awarded by learned Trial Court was reduced from three years to two years.

2. The factual background of the case is that one Criminal Complaint bearing no.1064 of 2010 was filed by the Complainant, Silam Devi in the court of learned CJM, Buxar. Thereafter, the complaint was transferred to the Court of



learned Judicial Magistrate under Section 192 of Cr.PC for inquiry, trial and disposal.

3. After inquiry, the process was issued against the petitioners herein for offence punishable under Section 498A IPC. Thereafter, charge was also framed against the petitioners under Section 498A of IPC. During trial, three Complaint Witnesses were examined. Complainant herself was examined as CW-2 whereas her father, Ramdeo Choudhary was examined as CW-1 and one Sheo Kumar Chaoudhary was also examined as CW-3.

4. After the evidence was over, the accused persons were examined under Section 313 of Cr.PC in which they claimed that they are innocent and the evidence against them was false. However, no evidence was adduced by the petitioners in their defense.

5. I heard learned counsel for the petitioners and learned APP for the State. However, nobody has appeared on behalf of Opposite Party No. 2 (Complainant) despite valid service of notice.

6. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. He further submits that learned Trial Court as well as



learned Appellate Court has not appreciated the evidence on record properly and hence, erroneously passed the impugned judgment and order.

7. He further submits that learned Trial Court and learned Appellate Court had failed to appreciate that allegation against the petitioners are general and omnibus. There is no specific allegation of any offence with date, place and time of commission of the offence.

8. He further submits that the criminal complaint was filed by the complainant against her husband and father-in-law, who are the petitioners herein, only with ulterior motive to pressurize the petitioner/husband to effect partition in the family and live separately.

9. He also submits that the complaint itself was drafted by the counsel and not by the Complainant herself. The Complainant was not aware of the content of the complaint as she has admitted in her evidence during the trial. Hence, the conviction of the petitioners under Section 498A IPC is not sustainable in the eye of law.

10. However, learned APP for the State defends the judgment of conviction and order of sentence submitting that there is no illegality and impropriety in it. Hence, the present



revision petition is liable to be dismissed.

11. I considered the submissions advanced by both the parties and perused the material on record.

12. I find that the complainant was married to the petitioner no. 1, Jai Kishore Choudhary in the year 2006. Thereafter, she joined the matrimonial home and as per allegation, additional demand of dowry started and on account of non-fulfillment of the same, she was subjected to cruelty by the petitioners and other co-accused who have already been acquitted by learned Trial Court.

13. I further find that the allegation against the petitioners are general and omnibus in nature. No date, time, place and nature of cruelty has been specifically mentioned in the complaint or during evidence. I further find that during cross-examination, the Complainant, Silam Devi has clearly admitted that the complaint was prepared by her counsel and she was not aware of what the complaint contained. She has stated that she simply signed on it on the dictation of her counsel. She has also admitted during cross-examination that she has not given any detail of the alleged occurrence to his counsel while drafting the complaint. She has further stated that if her husband, Jai Kishore Choudhary gets separated from his



parents, she may live with him. Such evidence of the complainant during trial clearly shows that the complaint was false and fabricated and filed with ulterior motive to pressurize her husband to get partition from his parents and live separately.

14. Hence, the impugned judgment of conviction and order of sentence are not sustainable, the same are set aside, acquitting the petitioners of all charges.

(Jitendra Kumar, J.)

Chandan/-

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

