

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.605 of 2019

Arising Out of PS. Case No.-112 Year-2002 Thana- HARNAUT District- Nalanda

Chhote Singh S/o Late Lakha Singh, Resident of Village- Kalyan Bigha, P.S.-
Harnaut, District- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar.
2. Renu Devi W/o Chhote Singh, Resident of Village- Kalayan Bigha, P.S.-
Harnaut, District- Nalanda.

... .. Respondents

Appearance :

For the Petitioner : Ms. Kumari Sujata Sinha, Advocate
For the Respondents : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 03-03-2025

The present revision petition has been preferred by the petitioner against the impugned judgment and order of sentence dated 02.02.2019, passed by learned Sessions Court in Cr. Appeal No. 70 of 2016, whereby the learned Sessions Court has upheld the judgment of conviction and order of sentence passed by learned Additional Chief Judicial Magistrate-III, Biharsharif in G.R. No. 972 of 2002 corresponding to Harnaut P.S. Case No. 112 of 2002, bearing trial no. 1702 of 2016, whereby the sole accused was found guilty under Section 498(A) and was acquitted of charge under Section 494 of IPC and he was sentenced to undergo rigorous imprisonment for two years under Section 498(A) and also awarded fine of Rs. 5,000/- and in case of



default to pay the fine, to further undergo simple imprisonment for 15 days.

2. I heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the State.

3. Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in the present case.

4. He further submits that as per the best case of the prosecution, subsequent to the death of the son of petitioner and informant / opposite party no. 2, the petitioner remarried another lady for the sake of having a son because petitioner's first wife was sterilized. Subsequent to the second marriage, the first wife / opposite party no. 2 was subjected to cruelty. The specific allegation is that kerosene oil was sprinkled upon the informant / opposite party no. 2 in the kitchen and on other articles, but the moment the accused / petitioner was going to lit the fire, the daughter of informant / opposite party no. 2 and the petitioner came and he could not set fire to the body of his wife.

5. He further submits that learned Trial Court has already acquitted the petitioner of charge under Section 494 of IPC and going by the allegation and evidence adduced in support of the allegation for setting fire to the informant / opposite party no. 2, the alleged offence is not completed and hence, it could be at most



said to be preparation for committing the offence of setting fire to the informant and it goes without saying that any preparation for committing offence is not punishable. Hence, even section 498(A) of IPC is not made out against the petitioner.

6. He further refers to the impugned judgment and submits that learned Trial Court has not given any finding of the facts which would constitute offence under Section 498(A) of IPC. Without showing the fulfillment of the alleged offence under Section 498(A) of IPC, both learned Appellate Court and learned Trial Court have found the petitioner guilty under Section 498(A) of IPC. Even reasons for such findings are not assigned. Hence, impugned judgment is not sustainable and petitioner is liable to be acquitted of the charge.

7. However, learned Additional Public Prosecutor for the State submits that there is no illegality or infirmity in the impugned judgment and the present petition is liable to be dismissed.

8. Considering the statements advanced by the parties and perusal of materials available on record, I find that petitioner is already acquitted of the charge under Section 494 of IPC by the Trial Court and that has not been challenged by the informant.

9. As for charge under Section 498(A) of IPC against the petitioner, I find that as per the allegation in the FIR, there is



no specific allegation of any cruelty except the allegation that petitioner wanted to set fire to the informant / opposite party no. 2 by sprinkling kerosene oil on her, but the moment he was going to lit the fire, the daughter of informant / petitioner came and fire could not be set to the informant / opposite party no. 2. As such, offence of setting fire to the informant / opposite party no. 2 is not complete. As most, it constitutes preparation for committing the offence of setting fire to the informant / opposite party no. 2, but preparation for committing an offence is not punishable.

10. Hence, offence under Section 498(A) of IPC is not made out as per the allegation and the evidence on record and petitioner is entitled to get acquitted.

11. Impugned judgment is, therefore, not sustainable in the eye of law and is accordingly set aside.

12. The present revision petition stands allowed.

(Jitendra Kumar, J)

Shahnawaz/-

AFR/NAFR	NAFR
CAV DATE	NA
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