

(2021) 04 PAT CK 0099
In the Patna High Court
Case No : Criminal Revision No. 1191 Of 2019

Amit Anand

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 15-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 397, 401
Indian Penal Code, 1860 — Section 498A
Dowry Prohibition Act, 1961 — Section 4

Citation : (2021) 04 PAT CK 0099

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Jagannath Singh, Rakesh Kumar, Sunil Kumar Sinha

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner in virtual Court proceeding. No one appears for the respondent in spite of link of the virtual proceeding successfully sent to the email.

2. This application under Sections 397 and 401 of the Code of Criminal Procedure is against judgment dated 19th of June, 2019 passed in Cr. Appeal No.185 of 2018 whereby the learned Additional Sessions Judge-XVII, Patna, has dismissed the appeal against conviction for offences under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

3. Learned trial Judge i.e., Sub-Divisional Judicial Magistrate, Patna, has recorded conviction against the petitioner on 31.07.2018 in connection with Jakkanpur P.S. Case No.166 of 2012, corresponding to G.R. Case No.3154 of 2012 and has awarded rigorous imprisonment of three years plus fine of rupees five thousand for offence under Section 498A of the Indian Penal Code and simple imprisonment of six months and a fine of rupees five thousand for offence under Section 4 of the Dowry Prohibition Act. In the event of non-payment of fine; one month simple imprisonment and fifteen days simple imprisonment respectively

for the two offences aforesaid was awarded against the petitioner. The petitioner is husband of the prosecutrix. By the same judgment learned trial Judge acquitted co-accused Anshu Anand, Abhishek Anand, Anu Anand and Anurag Anand, the siblings of the petitioner, whereas parents of the petitioner were found guilty and were released on execution of probation bond to maintain good behaviour for the next three years. The learned trial Judge has not assigned any reason as to why the petitioner was not deserving protection under Probation of Offenders Act.

4. Learned counsel for the petitioner contends that the lower appellate Court has passed ex-parte judgment without even taking assistance from the State counsel. The judgment of the lower appellate Court would reveal that the lower appellate Court was conscious of the grounds for success of the appeal taken by the appellant in the memo of appeal. However, did not meet with any of the referred grounds including the ground of lack of jurisdiction with the trial Judge.

5. This Court was inclined to set aside the appellate Court's order and remit back the matter for disposal of the appeal after hearing the parties. However, at this juncture, learned counsel for the petitioner submits that the petitioner is in custody since 19.11.2019 for the reason that it was essential to surrender before hearing of the revision application. The petitioner feels harassed enough to go through the jugglery of litigation after remittance before the lower appellate Court, to face the rigors of litigation. Hence, the petitioner is ready if the Court disposes of the matter by reducing the sentence to the period already undergone.

6. In the result, this criminal revision stands disposed of with modification in sentence to the extent period already undergone.

Let the petitioner be released at once.