
(2010) 03 PAT CK 0007

In the Patna High Court

Case No : Criminal Revision No. 265 of 2010

Goverdhan Singh @ Govind Singh and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 23-03-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 498A

Citation : (2011) 59 BLJR 2052 : (2011) 1 DMC 52 : (2011) 6 RCR(Criminal) 2730

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Judgement

Mandhata Singh, J.—This revision application has been filed against the judgment and order dated 21.1.2010 passed in Cr. Appeal No. 77/2000/37/2009 by Mr. Baij Nath, Additional Sessions Judge, F.T.C. IV, Aurangabad by which he dismissed the appeal and confirmed the judgment and order dated 31.8.2000 passed by Mr. Rani Siya Singh, Sub-Divisional Judicial Magistrate, Aurangabad in G.R. Case No. 1688/92, Tr. No. 609/2000 whereby he convicted the Petitioners u/s 498A, IPC and sentenced them to undergo simple imprisonment for one year. Two other co-accused namely Rajramia Devi and Baijanti Devi had been released on the admonition under Probation of Offenders Act.

Heard learned Counsel for the parties. The prosecution case, in brief, is that Permila Devi was married with Petitioner No. 1 Govardhan Singh, six years back. There was son from the wedding. Husband father-in-law, Bhaisur, Dewar and elder Gotni were making demand for Rs. 10,000 as dowry and causing torture for its non-fulfilment. Threatening was being given about another marriage of the husband. She was assaulted and ousted from the matrimonial house and notice through lawyer was given. Thereafter on written assurance of the husband, the victim was allowed to join matrimonial family but lastly she was ousted after assault and keeping all her belongings.

2. After trial the case resulted into conviction which is confirmed by the Appellate

Court also. Legality, correctness and propriety of both the judgments and orders are questioned through filing this revision petition but the same is pressed for husband on the point of sentence and for rest, illegality in arriving conviction is also challenged by making submissions.

3. For Petitioner Nos. 2 and 3, it is said that while legal notice was sent that is to the father-in-law of the victim showing no demand by Petitioner Nos. 2 and 3 though all the family members have been involved with vague allegation that once on 29th May, 1992 all the family members assaulted her. There appeared several occasions when either the father-in-law or the husband was contacted, negotiated and they remained active either to bring back the victim or to execute bond or to give any assurance in panchayati.

4. PW 4, the victim though has attempted to involve all the family members but specifying the allegation against her husband or her father-in-law. In paragraphs-8 she states about reporting/informing the incident to her parents, again grievance arose. In that regard, she states that her husband never took information about her whereabouts but husband came to her and after execution of bond only he was allowed to bring back this victim lady.

Information of the incident happened with her in sasural to her parents is relevant that notice through lawyer (Exhibit-1) is on basis of her information and in that there is no averment regarding making of demand by any of the family members rather as against demand of Rs. 10,000 and a motorcycle asserted by this witness, notice is stating about demand of Rs. 10,000 only.

5. Averment made in the notice (Exhibit-1) could not be relied if would have been filed on behalf of the defence but the informant himself filed and relied on it, so notice (Exhibit-1) can be taken as an evidence as any other document. I am not going to discuss exaggerated assertion or statement of allegation of torture by PW 4 making statement in paragraph 6 that her husband caught her hand and her Gotni poured kerosene oil without referring its purpose but she was not set on fire without any intervening circumstance. This much is relevant that rest of family members have been attempted to involve making unaccepted averments.

6. For Petitioner No. 1, the husband, it is of no importance as conviction has not been challenged and for rest of Petitioners it can only be taken that every attempt is made to involve all the family members by making believable or non-believable allegations and if that is taken along with Exhibit-1 it is apparent that their involvement cannot be believed by relying statement of PW 4 and Exhibit-1 which has never been taken into consideration by any of the Courts and thus an illegality is committed can be cured by allowing the revision petition to the extent.

7. The revision petition is allowed in part, the judgment and orders passed by the Appellate Court and the Trial Court dated 21.1.2010 and 31.8.2000 respectively are set aside for conviction of Petitioner Nos. 2 and 3. Accordingly, they are acquitted.

8. As Petitioner Nos. 2 and 3 namely Bhujali Singh and Janardan Kumar @ Janardan Singh @ Titli Singh are in custody, they are directed to be released at once, if not wanted in any other case.

9. As for Petitioner No. 1, namely, Goverdhan Singh @ Govind Singh, his sentence is modified and minimized to six months from one year. He shall be released from custody after completion of that period.

10. Let lower Court record be sent down to the Court below forthwith.

11. Let this order be communicated to the Court below through fax at the cost of the Petitioners. Revision partly allowed.