

(2016) 11 PAT CK 0050

In the Patna High Court

Case No : Criminal Revision No. 753 of 2014 with Cri. Rev. No. 763 of 2014

Kameshwar Prasad

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 09-11-2016

Acts Referred:

Penal Code, 1860 (IPC) — Section 498A

Citation : (2016) 4 BLJud 371 : (2017) 1 ECrC 81

Hon'ble Judges : Chakradhari Sharan Singh, J.

Bench : Single Bench

Advocate : Mr. Md. Fahimuddin, A.P.P, for the State in CR. REV. No.763 of 2014; Mr. V.R.P. Singh and Mr. Subodh Kumar, Advocates, for the Respondent No. 2 in CR. REV. No.753 of 2014; Ms. Gulnar Begum, A.P.P, for the State in CR. REV. No.753 of 2014; Mr. Yogesh Chand

Final Decision : Disposed Off

Judgement

Chakradhari Sharan Singh, J. (Oral) - Both these revision applications filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, arise out of judgment and order, dated 19.07.2014, passed, in Criminal Appeal No. 44 of 2013, by learned Sessions Judge, Sitamarhi, whereby he has affirmed the judgment of conviction and the order of sentence, dated 07.08.2013, passed by the learned Sub Divisional Judicial Magistrate (Sadar), Sitamarhi, in Trial No. 502 of 2013, arising out of G. R. No. 1767 of 2006.

2. The learned Trial Court, by the aforesaid judgment and order, dated 07.08.2013, has held the petitioners guilty of the offence punishable under Section 498A of the Indian Penal Code and has sentenced them to undergo simple imprisonment for a period of 2 years and 06 months, and imposed fine of Rs. 3,000/- each, in default of which, the petitioners have been directed to undergo simple imprisonment for a further period of four months. The period undergone in custody has been directed to be set off.

3. Since these applications arise out of the common judgments and orders, both

these applications have been heard together with the consent of the parties and are being disposed of by the present common judgment and order.

4. I have heard Mr. Yogesh Chandra Verma, learned Senior Counsel for the petitioners and Mr. V. R. P. Singh, learned Counsel for the informant. I have also heard Ms. Gulnar Begum and Mr. Md. Fahimuddin, learned Additional Public Prosecutor, representing the State, in both these cases.

5. The petitioner, Kameshwar Prasad, of Criminal Revision No. 753 of 2014, is the husband of the informant; whereas, petitioner nos. 1 and 2, namely, Mostt. Kanti Devi and Jagarnath Prasad, of Criminal Revision No. 763 of 2014, are mother and cousin, respectively, of the petitioner of Criminal Revision No. 753 of 2014, namely, Kameshwar Prasad.

6. The learned Senior Counsel, appearing on behalf of the petitioners, has not been able to make out an exceptional case requiring interference by this Court in revisional jurisdiction when there are concurrent findings of leading to conviction of the petitioners, recorded by the Trial Court and the Appellate Court. The submissions advanced on behalf of the petitioners, to the effect that findings recorded by the Courts below are perverse, has not been found to be convincing for the reason that the findings cannot be said to be without evidence or contrary to evidence.

7. On perusal of the Lower Court's Record, I find that at the trial, evidence was adduced on behalf of the prosecution to support the case of the prosecution that the informant was subjected to harassment and cruelty by the petitioners.

8. Learned Senior Counsel for the petitioners, after having not been able to convince me on the point of perversity of the concurrent findings of the facts recorded by the Courts below, has submitted that considering the nature of accusation and findings, in the background of the evidence adduced at the trial and nature of accusation, the sentence of imprisonment is too harsh.

9. Learned Counsel appearing on behalf of the informant has, on the other hand justified the judgment of conviction and the quantum of punishment recorded by the Courts below.

10. After having perused the materials on record and going through the judgments and orders of the Courts below, I am of the view that interest of justice will be sub-served if the sentence of imprisonment is modified and reduced to the period of custody, which the petitioners have already undergone.

11. Accordingly, while not interfering with the findings relating to conviction of these petitioners, the sentence of imprisonment is hereby modified and reduced to the period of custody already undergone.

12. Since the petitioners, namely, Kameshwar Prasad, Mostt. Kanti Devi and Jagarnath Prasad, are on bail by virtue of the order of this Court, dated 18.09.2014, passed in the present proceeding, they are discharged from the

liabilities of their bail bonds furnished earlier before the Trial Court.

13. These applications stand disposed of accordingly.