

(2011) 02 JH CK 0107
In the Jharkhand High Court
Case No : Criminal Rev. No. 1072 of 2010

Rameshwar Das

APPELLANT

Vs

The State of Jharkhand, Tahdi Das and Chabni @ Chabia Devi

RESPONDENT

Date of Decision : 22-02-2011

Acts Referred:

Limitation Act, 1963 — Section 5

Penal Code, 1860 (IPC) — Section 109, 494, 498A

Citation : (2011) 02 JH CK 0107

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.K. Sinha, J.

I.A. No. 2670 of 2010

1. The instant Interlocutory Application has been filed u/s 5 of the Limitation Act for condonation of 2828 days" delay in filing the Criminal Revision. It has been explained by the Petitioner, who was convicted under Sections 498A/494/109 of the Indian Penal Code, that his conviction and order of sentence recorded by the S.D.J.M., Deoghar in P.C.R. No. 124 of 1997, corresponding to T.R. No. 288 of 1999 was affirmed in Criminal Appeal No. 40 of 1999 on 04.12.2002 by the Addl. Sessions Judge.

2. The learned Counsel submitted that during pendency of appeal both the parties compromised the matter outside the Court and thereafter since there was no source of livelihood, the Petitioner went outside the State to work in Delhi where he stayed for long 10 years with his wife but without communication. The Petitioner was a poor man and he was compelled to leave the Station and when he returned back in the 1st week of September, 2010, he was arrested by the police on 25.09.2010 and was remanded back to judicial custody. The mother and father of the Petitioner was already dead. The wife of the Petitioner anyhow

obtained certified copy of the judgment and it was made over to the lawyer for filing Criminal Revision, accordingly it was filed on 30.11.2010.

3. On the other hand, a joint affidavit has been filed on behalf of Tahdi Das and Chabni @ Chabia Devi stating therein admitting the torture being extended to Chabni @ Chabia Devi though a compromise was held in the year 2000 and Chabni @ Chabia Devi had accompanied her husband Rameshwar Das to Delhi and when returned back on 25.09.2010 Rameshwar Das was arrested. The learned Counsel submitted that no compromise petition could be filed before the lower Court so no appropriate order could be passed. Though affidavit was sworn before the Notary, Deoghar but it was neither brought to the notice of the Court nor any compromise petition could be filed on behalf of the complainant Tahdi Das. The victim Chhabia Devi is the daughter of the complainant and the first wife of the Petitioner Rameshwar Das. No explanation has been given about the whereabouts of the 2nd wife Devni Devi and that the Petitioner was convicted as also under Sections 494/109 of the Indian Penal Code and his conviction was upheld in appeal.

4. Under the facts and circumstances of the case, argument advanced on behalf of the Petitioner, I find that the delay of 2828 days" in filing the instant Criminal Revision against the judgment recorded in Criminal Appeal No. 40 of 1999 by the Additional Sessions Judge, Deoghar has not been explained properly except mentioning that he entered into compromise with his first wife Chhabia Devi and then he went to Delhi with his wife where he stayed for long 10 years. He has not explained as to with which wife he went to Delhi, in the backdrop as well that he was convicted under Sections 494/109 of the Indian Penal Code for marrying to another woman Devni Devi.

5. Having been dissatisfied with the explanation given for the unreasonable and inordinate delay for 2828 days, I am not inclined and hence the petition filed on behalf of the Petitioner u/s 5 of the Limitation Act for condonation of delay is rejected.

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6. Since the present petition is barred by limitation of 2828 days delay, this Criminal Revision is also dismissed.