
(2021) 04 JH CK 0081

In the Jharkhand High Court

Case No : Criminal Revision No. 421 Of 2012

Santanwa Saha and Anr

APPELLANT

Vs

State of Jharkhand & Anr

RESPONDENT

Date of Decision : 08-04-2021

Acts Referred:

Indian Penal Code, 1860 — Section 494, 498A

Citation : (2021) 04 JH CK 0081

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Ranjan Kumar Singh, Tarun Kumar

Judgement

1. Heard Mr. Ranjan Kumar Singh, learned counsel appearing on behalf of the petitioners.
2. Heard Mr. Tarun Kumar, learned counsel appearing on behalf of opposite party-State.
3. Nobody appears on behalf of opposite party No.-2. Arguments of the petitioners
4. Learned counsel for the petitioners submits that the petitioners have been convicted under Section 498-A as well as Section 494 of the Indian Penal Code. The petitioner No.-1 is the husband of the complainant and petitioner No.-2 is the second wife of the petitioner No.-1. The learned counsel submits that the case was filed after a long time from marriage and the only allegation is that the complainant sold her mother's land and ornaments and deposited Rs. 65,000/- in bank in the year 1995 and the petitioner no. 1 started her physical and mental torture, stopped food and clothes for demand of that Rs. 65,000/- and ultimately she was driven out from her house. It is further alleged that on 12.06.2006, the petitioner No.-1 perform second marriage with petitioner No.-2 and admittedly, there was no divorce between petitioner No.-1 and opposite party No.-2.

5. The learned counsel submits that there were other accused in the matter who were alleged to have facilitated the second marriage of petitioner No.-1, but they were ultimately acquitted.

6. He further submits that it has come in the judgment of the learned trial court that the marriage between the petitioner and the opposite party No.-2 was performed 35 years back as per the evidence of the complainant and as per the complainant herself three children were born out of wedlock and they all died due to mal-nutrition. The complainant has stated in her deposition that amount of Rs. 65,000/- was in the joint account with her husband who started pressurizing her to transfer all the amount in his name and when she did not agree, she was driven out from her sasural.

7. The learned counsel submits that so far as the petitioner No.-2 is concerned, she is the second wife of petitioner No.-1. Apart from this fact, there is no allegation against her of abatement of second marriage of the petitioner No.-1. He also submits that the persons who were alleged to have facilitated the petitioner No.-1 for performing second marriage were acquitted and the petitioner No.-2 has been convicted only because of the reason that she is the second wife of petitioner No.-1. He submits that the basic ingredients of offence under Section 494 of the IPC against the petitioner No.-2 has not been satisfied and she has been convicted only under Section 494 IPC . The learned counsel submits that considering the fact that the petitioner is about 66 years of age as on date and much time has elapsed from the date of complaint case which was filed in the year 2006, some sympathetic view may be taken. He submits that the petitioner has remained in custody for a period from 10.06.2012 during the pendency of the present case, to 26.06.2012, when he was directed to be enlarged on bail and a few days must have been taken by him to furnish the bail bond. The records of the case indicates that the bail bond was furnished by the petitioner before the learned court below on 29.06.2012.

Arguments of the opposite party-State

8. The learned counsel appearing on behalf of opposite party-State, on the other hand, opposes the prayer and submits that so far as the petitioner No.-1 is concerned, the learned courts below have rightly convicted him for offence under Section 498-A as well as Section 494 of the Indian Penal Code and there is no illegality or perversity in the impugned judgments and accordingly, the same do not call for any interference. He further submits that torture of the victim-complainant continued and ultimately, she was totally oust from her matrimonial home because of the acts of the petitioner who ultimately performed second marriage. He submits that suffering of the complainant continued and still continuing and accordingly, no sympathetic view may be taken against the petitioner No.-1.

9. The learned counsel has also submitted that so far as the offence under Section 494 of the Indian Penal Code against the petitioner No.-2 is concerned,

he does not have anything to say in the matter. However, he could not point out any material to submit as to the role of petitioner No.-2 in commission of offence in performing second marriage by the petitioner no. 1, except that she is his second wife.

10. The arguments are concluded.

11. Order is reserved.