
(2013) 08 PAT CK 0023

In the Patna High Court

Case No : Criminal Revision. No. 961 of 2002

Siraj Ansari and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 498A

Citation : (2014) 1 PLJR 204

Hon'ble Judges : Aditya Kr. Trivedi, J

Bench : Single Bench

Advocate : Najmul Hoda-2, for the Appellant; Arif., for State, for the Respondent

Judgement

Aditya Kr. Trivedi, J.—This revision petition was admitted on 12.11.2002 confining over sentence only. Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor.

2. Learned counsel for the petitioners was requested to support his plea with judicial pronouncement if any that the sentence so recorded by the learned trial court and concurred by the learned appellate court with slight modification over sentence of R.I. inflicted in default of payment of fine as S.I. for same period while keeping the remaining part of sentence intact should be wiped out whatever happens to be the submission made on behalf of the petitioner but the learned counsel failed to place.

3. In Hazara Singh Vs. Raj Kumar and Others, Hon''ble Apex Court had an occasion to adjudicate upon the matter and referring so many earlier decisions rendered on this aspect concluded in para-13 as:--

13. We reiterate that in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances

are relevant facts which would enter into the area of consideration. We also reiterate that undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law. It is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. The court must not only keep in view the rights of the victim of the crime but also the society at large while considering the imposition of appropriate punishment.

4. From the lower court record, it is apparent that victim Farhat Parveen was badly treated at her Sasural by her husband and the petitioners. Lastly with the help of the court she was rescued from her Sasural. The husband of the victim is still absconding. The details of the maltreatment meted out to her at her Sasural during her stay had elaborately been placed.

5. The trial court presided over by Bimal Kumar Sinha, Judicial Magistrate, 1st Class, Purnea in Complaint Case No. 1146 of 2008 vide its judgment dated 8.6.2001 found all the petitioners including Sakil (not petitioner) guilty for an offence punishable under Sections 323, 498A IPC and sentenced all the petitioners individually to undergo S.I. for three months u/s 323 IPC and R.I. for one year as well as also slapped with fine appertaining to Rs. 1,000/- (One thousand) each in default thereof to undergo R.I. for three months additionally, found modified in Cr. Appeal No. 57 of 2001 by the Sessions Judge, Purnea in default clause as in place of R.I. for three months, it has been held as S.I. for three months.

6. The judgment of the trial court dated 8.6.2001 divulges age of Siraj Ansari to be 60 years and Aisa Khatoon to be 50 years and since thereafter, approximately 12 years have passed that means to say the age of Siraj Ansari for the present is found different 72 years while Aisa Khatoon 62 years.

7. In the aforesaid background, the substantial sentence inflicted against them is directed to be erased maintaining the imposition of fine and its default clause. With regard to status of petitioner Md. Talim, I do not see any cogent ground to interfere with the sentences so inflicted by the learned lower courts. With the modification of sentence relating to Siraj Ansari and Aisa Khatoon, instant petition of revision is dismissed. Petitioners are on bail hence their bail bonds are cancelled with a direction to surrender before the lower court to serve out sentences.