
(2017) 01 TP CK 0008
In the Tripura High Court
Case No : Crl. Rev. P. No.22 of 2012

Sri Raju Das

APPELLANT

Vs

The State of Tripura

RESPONDENT

Date of Decision : 13-01-2017

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397

Citation : (2017) 1 GauLT 599

Hon'ble Judges : Mr. S.C. Das, J.

Bench : Single Bench

Advocate : Ms. P. Sen, Legal Aid Counsel, for the Petitioner; Mr. R.C. Debnath, Addl. P.P, for the Respondent

Final Decision : Dismissed

Judgement

Mr. S.C. Das, J. (Oral)— Heard learned legal aid counsel, Ms. P. Sen for the petitioner and learned Addl. P.P., Mr. R.C. Debnath for the State respondent.

2. This revisional application is directed against the judgment and order of conviction and sentence of accused-petitioner, Raju Das, passed by learned Addl. Sessions Judge, Court No.3, West Tripura, Agartala in Criminal Appeal No.8(1) of 2012, where-under the learned Addl. Sessions Judge found the accused CRL. petitioner guilty of committing offence punishable under Section 498A of IPC and sentenced him to suffer R.I. for three months and to pay a fine of Rs.2,000/-, in default of payment to suffer R.I. for another one month.

3. Prosecution case is that Smt. Bishakha Das, wife of the accused-petitioner lodged an FIR before O/C, East Agartala P.S. alleging that she was subjected to cruelty in the matrimonial home on demand of a dowry of Rs.25,000/-, and further she was subjected to cruelty with the allegation that she was ugly in looking and that after delivery of a female child she was again subjected to cruelty, and as a result she had to take shelter in her parental home. In the FIR the informant Bishakha Das made allegation against her husband Raju Das,

father-in-law Chan Mohan Das, mother-in-law Puspa Rani Das and sister-in-law Swapna Rani Das. Police registered the case as Agartala Women P.S. Case No.58 of 2009 under Section 498A read with Section 34 of IPC and after investigation charge sheet was submitted against all the four FIR named accused persons.

4. In course of trial, learned Judicial Magistrate, 1st Class framed a common charge against all the accused persons for commission of offence punishable under Section 498A read with Section 34 of IPC to which the accused persons pleaded not guilty and claimed to be tried.

5. In course of trial prosecution examined nine witnesses. After closure of the prosecution evidence accused persons were examined under Section 313 of CrPC and in their turn they adduced no defence evidence.

The defence case so far ascertained was that the allegation made by Bishakha Das was false and that she was not subjected to cruelty.

Learned Chief Judicial Magistrate at the conclusion of trial found all the accused persons guilty of the charge framed against them and sentenced accused-petitioner, Raju Das to suffer R.I. for two years and to pay a fine of Rs.5,000/-, in default to suffer R.I. for further three months. Other accused persons were sentenced to suffer R.I. for one year and to pay a fine of Rs.2000/- each, in default to suffer further R.I. for one month.

6. Aggrieved, the convicts preferred Criminal Appeal No.8(1) of 2012 and learned Addl. Sessions Judge by impugned judgment dated 27.03.2012 upheld the conviction of accused-petitioner, Raju Das but reduced the sentence to the extent that he shall suffer R.I. for three months and to pay a fine of Rs.3,000/-, in default to suffer R.I. for another one month. Other accused persons were acquitted by learned Addl. Sessions Judge.

7. Aggrieved, the present revisional application is filed by the convict-petitioner, Raju Das.

8. It is argued by learned legal aid counsel, Ms. Sen that the FIR was lodged by the victim herself and she is to be considered as the principal witness in respect of exercise of cruelty in the matrimonial home. What she stated in the FIR has not been stated in her evidence before the Court. Other witnesses only made omnibus statements that she was subjected to cruelty, mentally and physically but there is no clear statement how she was treated with cruelty, mentally and physically.

9. To arrive at a conclusion on the submission made by learned legal aid counsel, Ms. Sen, I have gone through the evidence on record. It is not in dispute that marriage between the victim lady Bishakha and accused-Raju Das was held on 12th day of Magh in the Bengali calendar year 1412 B.S. and they lived as husband and wife. A girl child was also born to them. Bishakha made allegation in the FIR that after about a month of marriage she was subjected to cruelty by her husband and other members of the matrimonial home on demand of an

amount of Rs.25,000/- which could not be paid and therefore she was threatened by the accused-persons to finish her life. She also alleged that she was neglected saying that she was ugly and thereby she was dealt with cruelty, mentally and physically. She further alleged that after delivery of the female child she was further treated with cruelty by her husband and other inmates of the house.

10. A matrimonial offence is committed within the four walls of matrimonial home and outsiders are seldom a witness to the exercise of cruelty. Therefore, the evidence of the victim in the particular facts and circumstances of the case is of utmost importance to be given by the Court. The victim was married with accused-petitioner Raju Das. It is a rare case that a wife living peacefully in the husband's house will choose to leave the husband's house for no reason. Even with a minor girl child as alleged she left the matrimonial home. In her deposition she stated that she was tortured since she could not bring Rs.25,000/-. She also alleged that she was tortured after the birth of her child. She stated that after the birth of the child she was treated badly with a false imputation that the child was not of her husband. This allegation is very serious and it covers Explanation (a) to Section 498A of IPC. Even in cross-examination of PW8 defence made the suggestion that she was pregnant at the time of marriage. Such an allegation is serious for a woman and definitely burden lies on the accused to prove that the victim was pregnant at the time of marriage. The other witnesses also supported the allegation both on the count of demand of dowry as well as the imputation of pregnancy at the time of marriage.

Therefore, it cannot be said that the allegation against the accused-petitioner Raju Das is unfounded or that there is no evidence to support it.

11. The revisional application, therefore, is found to be devoid of merit and hence stands dismissed.

12. Send back the L.C. records along with a copy of this judgment.