

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Revision No.948 of 2003

1. Prafullya Mandal
2. Tawoo @ Tarachand Mandal
3. Prabhu @ Premchand Mandal
4. Shishu Mandalani
5. Saubhagya Mandalani Petitioners

Versus

The State of Jharkhand Opp. Party

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioners : Mr. Naresh Prasad Thakur, Advocate
For the Opp. Party : Mr. Prabir Kumar Chatterjee, Spl.P.P.

08/31.03.2022 Heard learned counsel for the parties.

2. This criminal revision application is directed against the judgment dated 08.09.2003 passed by the learned Additional Sessions Judge, XI, Dhanbad in Criminal Appeal No. 165 of 1999, dismissing the appeal and upholding the judgment dated 08.10.1999 passed by the Learned Judicial Magistrate, Ist Class, Dhanbad in G.R. Case No. 1246 of 1992, whereby the petitioners have been convicted and sentenced to undergo rigorous imprisonment for two years each for offence punishable under Section 498 A of the Indian Penal Code.

3. The prosecution case in brief is that the informant was married with Prafullya Mandal (Petitioner No.1) on 08.06.1991 and she started living with him. However, as alleged, in the month of October, 1991, her husband and other in-laws started torturing her to fulfill the demand of a Motor cycle and Rs. 20,000/-. It has been further alleged that she was assaulted and driven out of her matrimonial house and that her father was also threatened.

4. At the outset, Mr. Naresh Prasad Thakur, learned counsel for the petitioners submits that the petitioners are not habitual offenders and the allegations are minor in nature, inasmuch as, learned trial court punished them only for two years. Petitioner No.1 remained in custody for about 382 days. Petitioner No.s 2 and 3 was in custody for 131 days and Petitioner No.s 4 and 5 for 51 days. As such, he is

confining his prayer only on the question of sentence as the occurrence is of the year 1991 and the petitioners are now aged person and sending them back to jail at this stage even for a short period will hamper the entire family; as such the sentence may be modified for the period already undergone.

5. Learned counsel for the State supported the judgment and submits that there is no error in the finding given by the Trial Court. As such, the conviction cannot be set aside, however, the sentence may be modified in lieu of fine.

6. After going through the impugned judgment including the lower court records and keeping in mind the limited submissions of the learned counsel for the petitioners and also the scope of revision jurisdiction, I am not inclined to interfere with the findings of the court below and as such the judgment of conviction passed by the learned trial court and upheld by the learned appellate court is, hereby, sustained.

7. However, so far as sentence is concerned, it is apparent from record that the incident is of the year 1991 and about 30 years have elapsed and the petitioners must have suffered the rigors of litigation for the last 30 years. It is not stated that the petitioners have ever misused the privilege of bail. Further, the incident does not reflect any cruelty on the part of the petitioners or any mental depravity. Further, Petitioner No.1 remained in custody for about 382 days. Petitioner No.s 2 and 3 was in custody for 131 days and Petitioner No.s 4 and 5 for 51 days.

8. In a situation of this nature, I am of the opinion that no fruitful purpose would be served by sending the petitioners/convicts back to prison; rather interest of justice would be sufficed if the sentence is modified in lieu of fine.

9. Thus, the sentence passed by the court below is hereby, modified to the extent that the petitioners, namely Prafullya Mandal, Tawoo @ Tarachand Mandal, Prabhu @

Premchand Mandal, Shishu Mandalani and Saubhagya Mandalani are sentenced to undergo for the period already undergone, subject to the payment of fine of Rs.5000/- each.

10. The petitioners, namely Prafullya Mandal, Tawoo @ Tarachand Mandal, Prabhu @ Premchand Mandal, Shishu Mandalani and Saubhagya Mandalani shall pay the aforesaid fine of Rs.5000/- each within a period of four months from today before the court below which shall be paid to the complainant after verification as victim compensation under Section 357 of Cr.P.C., failing which they shall serve rest of the sentence as ordered by the learned trial court and upheld by appellate court.

11. The petitioners shall be discharged from the liability of their bail bonds subject to the fulfillment of the aforesaid condition.

12. With the aforesaid observations and modification in sentence only, the instant revision application is disposed of.

13. Let the copy of this order be communicated to the court below and also to the petitioners through the officer-in-charge of concerned police station.

14. Let the lower court record be sent to the court concerned forthwith.

(Deepak Roshan, J.)

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