

(2020) 01 JH CK 0263

Jharkhand High Court

Case No: Criminal Revision No. 1055 Of 2014

Ashit Kumar Banerjee

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision: Jan. 18, 2020

Acts Referred:

- Indian Penal Code, 1860 - Section 498A

Hon'ble Judges: Deepak Roshan, J

Bench: Single Bench

Advocate: D.C.Mishra, Shiv Shankar Kumar

Final Decision: Disposed Of

Judgement

The instant application is directed against the judgment dated 21st July, 2014, passed by the learned Sessions Judge, Bokaro, in Criminal Appeal No. 7

of 2013, whereby the appeal preferred by the petitioner has been dismissed and the judgment of conviction and order of sentence dated 14th

December, 2012, passed by the learned S.D.J.M, Bokaro in C.P.Case No. 11 of 2004, whereby the petitioner has been convicted and sentenced to

undergo R.I. for two years with a fine of Rs.5,000/- for the offence under Section 498-A of the I.P.C. and in default of payment of fine, he was

further directed to undergo additional S.I. for six months, has been affirmed.

Learned counsel for the petitioner submits that after the conviction, the parties have separated themselves and both are living separately and

peacefully. He further submits that the petitioner is not a habitual offender and he is not involved in any criminal activity and as such some leniency

may be granted by this Court and order of sentence may be modified in lieu of fine.

Per contra, the learned A.P.P. as well as counsel for the opposite party no.2 support the impugned orders and submits that there is no error in the

impugned order. However, counsel for the opposite party no.2 fairly submits that the O.P No.2 has already been married and living with his family.

Having heard learned counsel for the parties and after going through the impugned orders and the lower court record and keeping in mind the limited

scope of revision jurisdiction, I am not inclined to interfere with the findings given by the courts below and as such the judgment of conviction passed

by the learned trial Court and upheld by the learned appellate Court, is hereby, confirmed.

However, so far as sentence is concerned, it is apparent from record that the incident is of the year, 2004 and more than 15 years has elapsed and it

appears from record that the petitioner has remained in custody for about 95 days. Further, the record transpires that he has never misused the

privilege of bail. In this view of the matter, I am of the considered opinion that sending the petitioner back to prison will not serve any fruitful purpose,

rather the sentence should be modified in lieu of fine.

Thus, the sentence passed by the learned trial court and upheld by the learned appellate court is, hereby, modified to the extent that the petitioner is

sentenced to undergo for the period already undergone subject to the payment of fine of Rs. 7,000/-.

It is made clear that the petitioner is directed to pay the aforesaid fine of Rs. 7,000/- within a period of three months from today before the learned

District Legal Services Authority, Bokaro, failing which he shall serve rest of the sentence as directed by the learned trial court.

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

The petitioner shall be discharged from the liability of his bail bonds subject to fulfillment of aforesaid condition.

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

Let this order be sent to the learned trial court and the District Legal Services Authority, Bokaro through FAX.