

(2011) 03 PAT CK 0112**Patna High Court****Case No:** S.L.A. No. 78 of 2010

Kumari Rashmi

APPELLANT

Vs

The State of Bihar of Ors.

RESPONDENT

Date of Decision: March 11, 2011**Acts Referred:**

- Dowry Prohibition Act, 1961 - Section 4
- Hindu Marriage Act, 1955 - Section 9
- Penal Code, 1860 (IPC) - Section 406, 498A

Citation: (2012) 1 PLJR 135**Hon'ble Judges:** Dharnidhar Jha, J**Bench:** Single Bench**Final Decision:** Dismissed**Judgement**

@JUDGMENTTAG-ORDER

Dharnidhar Jha, J.

Heard learned counsel for the parties.

2. The present S.L.A. seeks leave of this court to appeal against the judgment of acquittal dated 23.6.2010 passed by Shri Narayan Das Sharma, S.D.J.M., Siwan in Complaint Case No. 473/09/Tr. No. 3571/09/3160/2010. By the impugned judgment, the learned S.D.J.M. acquitted the respondents of charges under Sections 498A and 406 of the IPC and Section 4 of the Dowry Prohibition Act.

3. Undisputedly, the complainant Kumari Rashmi was married to respondent Manoranjan Kumar Nirala on 15.4.2008 and this is also not disputed that after solemnization of marriage, the lady came to live in the house of said respondent but on account of the retirement of the father (P.W. 1) of the complainant (P.W. 2), the accused persons were demanding rupees fifty thousand and not getting it and the same being objected to by the lady complainant (P.W. 2), they put her inside a room

and shut the doors and thereafter tortured her so much so that she was also asked to leave the matrimonial house. The complainant claimed that she informed her father (P.W. 1) who came and wanted to bring the respondents to reason, but that did not have any effect and again on 2.11.2008 the lady was ill-treated and tortured. The lady P.W. 2 stated that her father had already given many articles as presents at the time of marriage including the maruti car and there was nothing left with him to be given to the accused persons. On these reasonings of P.W. 2, the accused persons pointed out to the lady that the maruti car stood registered in her name and that should be transferred in the name of Manoranjan Kumar Nirala and, accordingly, she was being pressured to execute a sale letter in favour of her husband. Lastly, they stopped her meals, as a result of which she came back to her parents' house. On 15.2.2009 and onwards the father of the complainant started receiving the threats of being killed from the respondents and they refused to give the dowry articles which were given to her by her father. Complaints were also lodged about the conduct of Manoranjan Kumar Nirala to his superior controlling officers, but to no effect and, lastly, it was found out that the said accused was never employed in the office and he had cheated the lady and her father by telling them that he was employed. In fact, he had never applied for any employment whatsoever.

4. During the course of trial, the lady and her father examined themselves. It is the evidence of these two witnesses, which appears relevant and germane for scanning the order of acquittal which was passed by S.D.J.M., Siwan.

5. What appears is that the learned Trial Judge has read some admitted facts which appear coming on to the records through cross-examination of P.W. 1 and P.W. 2, i.e., the father of the complainant and the complainant herself. What appears from their evidence is that the lady was not willing to go to her matrimonial house and as a result of which, not only the husband was filing a petition for restitution of his conjugal rights but was also making the physical efforts with some other persons to come to the house of P.W. 1, father of the complainant where, she was residing so as to physically moving her to her matrimonial house. These facts have been admitted both by P.Ws. 1 and 2. During the course of their cross-examination, attention appears profusely drawn to the statements made by the lady in her reply to the petition u/s 9 of the Hindu Marriage Act and it has been admitted by the lady rather, it has been clearly stated by the lady that she was at all not ready to unite with the husband nor she was ready to go to his house and further that the accused persons had made physical attempts of taking the lady to their house. If this could be the statement of PWs-1 and 2 who could be real persons to speak on those personal matters, then the probability could be that the lady was at all not pressurized to go with the husband and further that the story of torture and ill-treatment may not be accepted on account of the doubt appearing in that part of the prosecution story.

6. While I was going through the judgment passed by the learned S.D.J.M., Siwan, it always appeared very clearly to me that in fact the case appeared to be a case of incompatible relationship of two persons. It could be a probability or reality as well that the husband might have duped the parents of the complainant that he was an employed person which might have turned out as fake and incorrect, as a result of which, the lady was not ready to continue with the relationship arising out of the marriage and that was the reason that the lady was attempting to get herself rid of that situation. This was one of the probabilities which I find coming out of the admitted position and in that view of the matter, I do not find any reason to grant any leave to appeal against the judgment of acquittal passed in favour of the respondents.

7. Application seeking Special Leave to Appeal is dismissed.