

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision No. 202 / 2016

Smt Chandrakanta W/o Dr. Farooque Ahmed Rathore D/o Shri
Nayaran Lal by caste Vaishnav, resident of House No. 176,
Ghanchi Colony, Bhagat Ki Kothi, Jodhpur.

----Petitioner

Versus



1. The State of Rajasthan.

2. Dr. Farooque Ahmed Rathore S/o Shri Asadullaha by caste
Musalman, resident of Vatapor P.S. Bandipur District Baramulla.
At present Medical Incharge, Govt. Community Health Centre,
Desuri District Pali.

----Respondents

For Petitioner(s) : Mr. Om Rajpurohit

For Respondent(s) : Dr. Shailendra Kala

Mr. Rajesh Bhati, P.P. for State

HON'BLE MR. JUSTICE PANKAJ BHANDARI

Order

09/08/2017

1. Petitioner has preferred this revision petition aggrieved by
judgment and order dated 01.12.2015 passed by Additional
Sessions Judge, Women Atrocities Cases, Jodhpur Metropolitan,
whereby, the Court dismissed the appeal preferred by the
petitioner against the order and judgment dated 06.06.2015
passed by Metropolitan Magistrate No. 2, Jodhpur Metro.

2. Briefly stated the facts of the case are that the petitioner

filed a report against the respondent alleging that she was married with the respondent and that she has two sons from the marriage aged 6 years and 10 years. Allegations under Section 498-A I.P.C were levelled against the respondent. Police after investigation submitted a charge sheet against the respondent under Section 498-A of I.P.C. The respondent was charged under section 498-A.

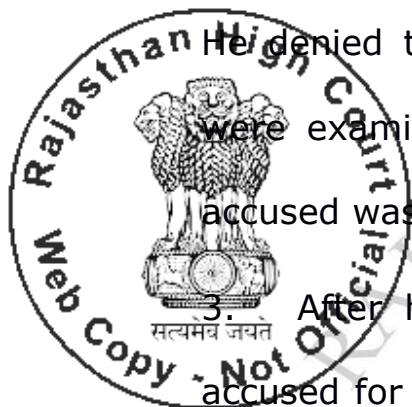
He denied the charges upon which as many as eight witnesses were examined on behalf of the prosecution. Statement of the accused was recorded under Section 313 Cr.P.C.

3. After hearing the arguments the trial Court acquitted the accused for offence under Section 498-A. The appeal preferred by the petitioner was dismissed, hence, this revision.

4. It is contended by counsel for the petitioner that petitioner has been awarded maintenance under Section 125 Cr.P.C. which establish that there is relationship of husband and wife between the petitioner and respondent.

5. It is also contended that in the F.I.R filed for offence under Section 376 I.P.C the respondent has been discharged on the ground that respondent has entered into a Nata marriage with the petitioner. It is contended that the Courts below have come to the conclusion that there is no relationship of husband and wife and for this reason the complaint under Section 498-A I.P.C has been dismissed.

6. Counsel for the complainant has opposed the revision petition. His contention is that there is a concurrent finding of two Courts and the revisional Court should be slow in entertaining a revision where there is acquittal by Courts below.



7. It is also contended that under Section 125 Cr.P.C. the maintenance was awarded to the children and not to the petitioner. It is also contended that no offence under Section 498-A of I.P.C is made out against the petitioner as the petitioner has failed to establish that she is legally married wife of the respondent.

8. I have considered the contentions.

9. The present is a revision petition against the order of acquittal. There is a dispute amongst the parties with regard to solemnization of the marriage. Respondent is a Muslim whereas petitioner is Hindu. Photocopy of certain documents regarding Ration Card etc. is stated to have been produced before the Court below but the same have not been exhibited and hence this Court is constrained to look into those documents.

10. As far as offence under Section 498-A of I.P.C is concerned, suffice to say that the petitioner in her cross-examination has specifically stated that there was no demand of any sought by the respondent that being so as also the fact that in her cross-examination she has admitted that there is no allegation against the respondent of cruelty against the petitioner in the F.I.R filed by her.

11. There being no allegation with regard to the commission of offence under Section 498-A I.P.C. I would not like to enter into question whether there is a relationship of husband and wife between the petitioner and the respondent. The revision petition deserves to be dismissed only on the ground that the allegations under Section 498-A of I.P.C are not established.

12. The revision petition is accordingly dismissed. Record of the Court below be returned forthwith.

(PANKAJ BHANDARI)J.

Amit-Maha Singh/54



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