

Ramachandra Singh And Ors. vs State Of Bihar And Anr. on 22 March, 2002

Equivalent citations: JT2002(5)SC398, (2003)10SCC234, AIRONLINE 2002 SC 300, 2003 (10) SCC 234, (2002) 45 ALL CRI C 556, (2003) 1 HINDU LR 331, (2002) 3 ALL CRI R 2492, (2002) 3 EAST CRI C 257, (2002) 3 ALL CRI LR 759, (2002) 5 JT 398, 2004 SCC (CRI) 1069, (2003) SC CR R 260, (2002) 5 JT 398 (SC)

Bench: R.C. Lahoti, P. Venkatarama Reddi

ORDER

1. Leave granted.

2. The accused-appellants and few others were prosecuted on charges under sections 498A and 323 of the IPC. On trial, they are found guilty and sentenced to undergo simple imprisonment for one year and fine of Rs. 1000/- each for offence under Section 498A and sentenced to simple imprisonment for six months each for offence under Section 323 I.P.C. The appellants preferred an appeal. During the pendency of the appeal there was a compromise between the appellant and Kamlesh Kumari Devi, the complainant. In view of compromise the appellants were acquitted of the offence under Section 323 IPC but the conviction and sentence under Section 498A IPC was maintained as it is not compoundable. Criminal revision preferred by appellants before the High Court was dismissed.

3. From the contents of the compromise application and affidavit dated 6.11.2001 sworn in by Kamlesh Kumari Devi it appears that complainant's marriage having been dissolved, she has remarried. Her grievance against the appellants is over. She has stated that she does not want to proceed against any of the appellants. She also admits that appellant nos. 1 and 2 are more than 70 years of age while appellant No. 3 is of 42 years and employed as safety officer in Coal India Ltd.

4. According to the statement filed on behalf of the appellants, appellant Nos. 1 and 2 have already undergone imprisonment for a period of 8 months and 2 and a half months respectively. It is submitted on behalf of the appellants that in the facts and circumstances of the case it would meet the ends of justice if the appellant nos. 1 and 2 are let out with the period of imprisonment already undergone, while appellant No. 3, is allowed the benefit of probation so that he can continue in service, else he would be rendered jobless.

5. We have heard learned counsel for the appellants and the state and taken into consideration the facts and circumstances of the case.

In view of the compromise it appears that grievance, if any, of the complainant Kamlesh Kumari

Devi is over. Indeed in view of the compromise the accused appellants stand acquitted of the offence under Section 323 IPC. In such circumstances the sentence passed by the trial court and maintained by the High Court deserves to be modified so far as offence under Section 498A IPC is concerned.

6. The appeal is partly allowed. The conviction of appellant Nos. 1 and 2 under Section 498A IPC is maintained, but the sentence of imprisonment passed on them for offence under Section 498A is reduced to the period already undergone. In so far as appellant No. 3 is concerned, in our opinion, it will meet the ends of justice if he is dealt with under Section 4 of the Probation of Offenders Act, 1958, and released on probation of good conduct. The sentence of imprisonment passed on appellant No. 3 is set aside and it is directed that he shall be released on his entering into a bond with one surety in an amount of Rs. 5000/- to appear before the trial court and receive sentence on being called upon during a period of one year and in the meantime to keep the peace and be of good behavior.

7. The appeal stands disposed off accordingly. The personal bond and the surety bond by appellant No. 3 shall be filed before the trial court within a period of one month from today. The appellant Nos. 1 and 2 need not surrender to their bail bonds which are discharged.