

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.856 of 2024

Arising Out of PS. Case No.-103 Year-2018 Thana- ROSERA District- Samastipur

Anil Kumar S/o Late Dinesh Chandra Mahto R/o Village- Ward no. 4, Panchupur, P.S- Rosera, District- Samastipur

... ... Petitioner/s

Versus

1. The State of Bihar
2. Nutan Devi W/o Anil Kumar R/o ward no. 4, Mohalla - Panchupur, P.s. - Rosera, Distt. - Samastipur

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Kr. Yadav, Advocate
Mr. Ranjeet Kumar, Advocate

For the Respondent/s : Mr. Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date : 19-09-2025

The instant Criminal Revision is directed against the judgment of conviction and sentence dated 05.09.2024 passed by the learned 1st Additional Sessions Judge, Samastipur in Criminal Appeal No. 02 of 2023, whereby the learned appellate court set aside the judgment of acquittal dated 30.11.2022 passed by the learned Sub-Divisional Judicial Magistrate, Rosera in Trial No. 1247 of 2022 arising out of Rosera P.S. Case No. 103 of 2018, and convicted the petitioner under Sections 498-A and 494 of the Indian Penal Code, sentencing him to rigorous imprisonment of three years and fine of Rs.10,000/- under each section, with further stipulation of default imprisonment of one year. Both sentences were directed to run concurrently.



2. The petitioner, being aggrieved by the aforementioned judgment of reversal, has instituted the instant revision petition under Sections 397 and 401 of the Code of Criminal Procedure (hereinafter “CrPC”), thereby calling into question the legality, correctness, and propriety of the conviction and the sentence imposed by the appellate court.

3. That the present case arises out of Rosera Police Station Case No. 103 of 2018, registered on the basis of a written complaint dated 1st April 2018 by Opposite Party No. 2, Nutan Devi. In her complaint, she avers that she is the lawful wife of the Petitioner, Anil Kumar, having been married to him on 16 April 2004 according to Hindu rites and customs. She further pleads that over the years matrimonial relations between them broke down. Without obtaining any decree of divorce, the Petitioner is alleged to have solemnized a second marriage with one Kanti Kumari. It is her case that during the subsistence of her marriage with the Petitioner she was subjected to cruelty and she was driven out of the matrimonial home. In her deposition she alleged, despite the interim maintenance ordered in Maintenance Case No. 111 of 2016, she was denied maintenance and further she received threats to her life, which compelled her to approach the police.



4. Based on these allegations, an FIR was registered against the petitioner under Sections 498-A and 494 of the Indian Penal Code. After investigation, a charge-sheet was submitted, and the petitioner was put on trial before the court of learned SDJM, Rosera.

5. During the trial, ten witnesses were examined, seven for the prosecution and three for the defence. After a full hearing and careful evaluation of all evidence, the learned trial court acquitted the petitioner by a detailed judgment dated 30th November 2022, holding that the prosecution had failed to establish the charges beyond reasonable doubt.

6. Subsequent to the acquittal by the learned trial court, the informant, Nutan Devi, (O.P. No. 2, herein) preferred Criminal Appeal No. 02 of 2023 before the learned 1st Additional Sessions Judge, Samastipur. Upon hearing both sides and re-evaluating the evidence, the appellate court reversed the acquittal and convicted the petitioner under both Sections 498-A and 494 of the Indian Penal Code, imposing the sentence as aforesaid.

7. Aggrieved by the appellate court's reversal of acquittal, the petitioner has filed the instant revision under Sections 397 and 401 of the CrPC challenging the legality and propriety of the conviction and sentence imposed upon him.



8. The learned Sub-Divisional Judicial Magistrate, Rosera, vide judgment dated 30th November 2022, acquitted the petitioner of all charges under Sections 498-A and 494 of the Indian Penal Code. The principal findings of the trial court were as follows:

a) Among the seven prosecution witnesses, P.Ws. 1, 3, and 4 categorically denied knowledge of any cruelty or were declared hostile. P.W. 2, Ranjeet Kumar, an alleged independent witness, admitted during cross-examination that he had not witnessed any act of torture. P.W. 5, the informant herself, stated that she had been living separately from her husband for about three years but failed to provide specific dates, instances, or material particulars of alleged acts of cruelty.

b) The informant alleged that the petitioner had married Kanti Kumari while still being married to her; however, she did not produce any marriage certificate, photograph, or independent witness to support this claim. The prosecution relied on sale deeds (Kewala) showing Kanti Kumari as the wife of Anil Kumar; however, the trial court held that such documents, without proof of a marriage ceremony, were insufficient to establish a valid second marriage under Section 494 IPC.



c) PW-6, the Investigating Officer, admitted that he did not record the statements of the informant's parents or neighbours and failed to ascertain the identity of the alleged second wife. He also admitted in cross-examination that he had not verified who attended or witnessed the alleged second marriage.

d) Three defence witnesses (D.Ws. 1 to 3) consistently supported the stand that the informant had voluntarily left the petitioner's home and was in a relationship with one Vikash Kumar. No suggestion of bias or ill-will was made against these witnesses.

e) The prosecution story was found to be inconsistent, lacking in particulars, and unsupported by credible independent evidence.

9. The learned trial court concluded that the prosecution failed to establish the essential ingredients of Sections 498-A and 494 of the Indian Penal Code.

10. Accordingly, giving the benefit of doubt to the petitioner, the learned Magistrate acquitted him of all charges.

11. The learned 1st Additional Sessions Judge, Samastipur, while deciding Criminal Appeal No. 02 of 2023, by judgment dated 05.09.2024, reversed the trial court's acquittal and convicted the petitioner under Sections 498-A and 494 IPC. The



key findings and reasoning adopted by the appellate court are as follows:

- a) The learned appellate court placed considerable reliance on the testimony of PW-5, the informant, holding it to be credible and sufficient, despite the lack of corroboration from independent witnesses.
- b) The appellate court considered Exhibits 3, 4, and 5, which were certified copies of sale deeds (Kewalas) executed by or in favour of Kanti Kumari and bearing the name of Anil Kumar as her husband. It was held that these documents constituted sufficient proof of an ongoing matrimonial relationship between the petitioner and Kanti Kumari and thereby supported the charge under Section 494 IPC.
- c) The court observed that the informant was forced out of the matrimonial home and had to live in rented accommodation. It was also noted that the petitioner had failed to comply with interim maintenance orders passed in her favour by the Family Court in Maintenance Case No. 111 of 2016. The appellate court considered such conduct as constituting mental cruelty within the ambit of Section 498-A IPC.
- d) The appellate court also relied on documents filed in Matrimonial Case No. 25 of 2016 (Exhibit-8) and certain property-



related proceedings, interpreting them as evidence of the petitioner's intent to sever ties with the informant and establish a parallel matrimonial life with Kanti Kumari.

e) The appellate court held that the trial court had ignored material documents and misappreciated the evidence on record.

f) It was concluded that the trial court had wrongly extended the benefit of doubt, despite what the appellate court viewed as clear and sufficient proof of both cruelty and bigamy.

g) The appellate court rejected the defence plea that the informant was in a relationship with another man (Vikash Kumar), finding it unsubstantiated. It held that the defence witnesses were unable to rebut the prosecution's evidence effectively.

12. On these grounds, the appellate court convicted the petitioner and sentenced him to three years' rigorous imprisonment with a fine of Rs. 10,000/- under each of Sections 498-A and 494 IPC, with default sentence of one year each, to run concurrently.

13. The learned counsel for the petitioner, aggrieved by the reversal of acquittal, submits that the learned appellate court erred in interfering with the trial court's judgment, which was based on a thorough and reasoned appreciation of evidence. The trial court had acquitted the petitioner after finding that the



prosecution failed to establish the charges beyond reasonable doubt. The appellate court's interference was unwarranted, as there was no perversity or illegality in the acquittal.

14. The learned counsel for the petitioner submits that the conviction under Section 494 of the Indian Penal Code (IPC) is unsustainable due to the prosecution's failure to prove the essential ingredients of the offence. Section 494 IPC requires strict proof of a second marriage solemnized in accordance with law. In the present case, no eyewitnesses to the alleged second marriage were produced, nor was any marriage certificate, photographs, priest, or witness to any ceremony brought on record. The reliance on property sale deeds (Kewalas) to establish marital status was legally untenable, as such documents do not constitute valid proof of a marriage under Section 494 IPC.

15. The learned counsel for the petitioner submits that the prosecution's case is fraught with significant inconsistencies and contradictions, undermining its credibility. Specifically, P.W.2 (Ranjeet Kumar) admitted during cross-examination that he did not witness any act of cruelty, thereby failing to corroborate the informant's allegations. P.W.3 and P.W.4, both cited as material witnesses, expressed ignorance of any relevant events, casting doubt on the reliability of their testimonies. Furthermore, P.W.6,



the Investigating Officer, conceded that he did not examine key witnesses such as the informant's parents or neighbors', and failed to verify the identity of the alleged second wife, thereby neglecting crucial avenues of investigation. Additionally, the informant's version regarding dates, specific acts of cruelty, and the alleged second marriage was found to be vague and lacking in material particulars, rendering her testimony insufficient to substantiate the charges. In light of these significant evidentiary gaps, the learned counsel contends that the prosecution has failed to establish the charges beyond a reasonable doubt, warranting the quashing of the impugned judgment.

16. It was further submitted by the learned counsel for the petitioner that the Kewalas referred to in Exhibits 3, 4, and 5 do not constitute proof of marriage and were wrongly construed by the appellate court as conclusive evidence of second marriage.

17. The defence placed reliance on depositions and documents indicating that the informant herself had voluntarily left the matrimonial home and was in a relationship with one Vikash Kumar. This fact was mentioned by three defence witnesses. Further, the informant, in proceedings under Section 125 CrPC, had herself expressed no desire to claim maintenance and admitted that she was residing elsewhere by choice.



18. This Court finds out that the appellate court failed to appreciate that in the absence of legal and admissible proof of marriage, the conviction under Section 494 IPC could not be sustained. Moreover, vague and uncorroborated oral allegations are insufficient to attract the rigors of Section 498-A IPC.

19. On a careful consideration of the materials available on record, coupled with the submissions advanced by the learned counsel for the parties, and upon due scrutiny of the records of both the trial court and the appellate court, the following legal issues arise for adjudication:

(i) The jurisdiction under Sections 397 and 401 CrPC is supervisory in nature and is intended to correct jurisdictional errors, legal irregularities, or gross miscarriage of justice. While the revisional court does not ordinarily re-appreciate evidence, interference is justified when the findings of the lower court are either perverse, based on no evidence, or the law has been misapplied.

20. In the instant case, the trial court rendered a reasoned judgment of acquittal after full appreciation of facts and evidence. The appellate court, while reversing such acquittal, was required to demonstrate that the trial court's decision was manifestly erroneous or unsustainable in law, which it failed to do.



21. In the instant case, the trial court rendered a reasoned judgment of acquittal after full appreciation of facts and evidence. The appellate court, while reversing such acquittal, was required to demonstrate that the trial court's decision was manifestly erroneous or unsustainable in law, which it failed to do.

22. To secure a conviction under Section 498-A IPC, the prosecution must establish that the accused:

(a) Subjected the woman to cruelty, and
(b) Such cruelty was either for dowry demand, or was of such a nature as to drive the woman to commit suicide or cause grave injury to life, limb or health.

23. In the present case, the evidence of PW-5 is uncorroborated as no other witness supports her version. No medical report, neighbour's testimony, or any dated incident of cruelty has been brought on record. Furthermore, PWs 1, 2, 3, and 4 failed to corroborate or substantiate the prosecution's claim of cruelty. The Investigating Officer also admitted that no family member or local witness was examined.

24. It is well settled that vague allegations of cruelty, unaccompanied by any corroboration, do not suffice to bring home a conviction under Section 498-A IPC.



25. To attract Section 494 IPC, the prosecution must prove the solemnization of a second marriage during the subsistence of the first marriage and such marriage ought to take place with due ceremonies under personal law (Hindu Marriage Act, etc.). But in the present case no priest, photograph, invitation card, or certificate was produced to support the allegation against the second marriage of the petitioner. The Kewalas (Exhibits 3, 4, 5) merely indicate joint property transactions with Kanti Kumari. These do not amount to proof of solemnization of marriage as required by law.

26. The Hon'ble Supreme Court has consistently held that mere cohabitation or reference to a woman as 'wife' is not proof of marriage unless solemnization is established.

27. It appears that the learned appellate court did not point out perversity in the trial court's reasoning. It also failed to rebut the findings of contradictions and gaps in the prosecution evidence, misconstrued property documents as proof of marriage. The appellate court did not consider that the benefit of doubt was rightly extended by the trial court after full trial.

28. Since, reversal of an acquittal requires greater circumspection and must be supported by compelling reasons, none of which were recorded by the appellate court. The findings



of the appellate court are not only contrary to the settled legal position but also based on misapplication of law and misreading of evidence. This Court is constrained to hold that substantial miscarriage of justice has occurred in the instant case.

29. Having given keen consideration to the respective submissions advanced by the parties, and upon a thorough scrutiny of the evidence recorded before the trial court, this Court is of the considered view that the judgment of the learned trial court dated 30.11.2022 was legally sound, based on proper appreciation of facts, and correctly extended the benefit of doubt to the petitioner. The appellate court, on the other hand, reversed a well-reasoned acquittal without satisfying the test required to do so. It also failed to demonstrate that the judgment of acquittal suffered from any perversity, illegality, or manifest miscarriage of justice.

30. The essential ingredients of Section 498-A IPC, cruelty of such a nature as would endanger life or limb, were not proved beyond reasonable doubt. Similarly, the offence of bigamy under Section 494 IPC, which mandates strict proof of a second valid marriage, remained unsubstantiated.

31. The prosecution's case rested on the uncorroborated testimony of the informant, vague allegations, and property sale deeds that did not amount to proof of solemnization of marriage.



The investigation was perfunctory, and the prosecution withheld best evidence which ought to have been available if the allegations were true.

32. Hence, the conviction and sentence recorded by the learned 1st Additional Sessions Judge, Samastipur, cannot be sustained in law.

33. Accordingly, the Criminal Revision is allowed.

34. The judgment of conviction and sentence dated 05.09.2024 passed by the learned 1st Additional Sessions Judge, Samastipur in Criminal Appeal No. 02 of 2023 is hereby set aside.

35. The judgment of acquittal dated 30.11.2022 passed by the learned Sub-Divisional Judicial Magistrate, Rosera in Trial No. 1247 of 2022 is affirmed.

36. Since Revision No. 856 of 2024 is allowed and the petitioner is acquitted, he is discharged from all liabilities under the bail bond, and the surety is discharged from his liabilities.

37. With the above order the instant criminal revision is disposed of.

(Bibek Chaudhuri, J)

suraj/-

| | |
|--------------------------|------------|
| AFR/NAFR | NAFR |
| CAV DATE | 05.08.2025 |
| Uploading Date | 19.09.2025 |
| Transmission Date | 19.09.2025 |

