

**HIGH COURT OF JHARKHAND****Bench: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY****Date of Decision: 17<sup>th</sup> May 2024**

Case No.: Cr. Rev. No. 462 of 2019

**Parties:****Petitioner: Ranjit Singh @ Ranjeet Singh****VS****Respondent: The State of Jharkhand****Legislation:**

Section 4 of the Dowry Prohibition Act, 1961

Section 498A of the Indian Penal Code (IPC)

Sections 3 and 4 of the Dowry Prohibition Act, 1961

Section 156(3) of the Code of Criminal Procedure (Cr.P.C.)

**Subject:** Criminal revision challenging the conviction and sentence under Section 4 of the Dowry Prohibition Act. The case involves allegations of dowry demands and related cruelty by the petitioner against his wife, resulting in his conviction and sentencing by the trial and appellate courts.

**Headnotes:**

Dowry Prohibition Act – Conviction under Section 4 – Petitioner convicted for demanding dowry from his wife and her family, including Maruti car, color TV, and fridge – Trial court sentenced him to 6 months' simple imprisonment and a fine of Rs. 5,000 – Appellate court upheld the conviction but modified the default sentence to one month's imprisonment [Paras 1-24].

Matrimonial Cruelty – Evidence and Witness Testimony – Informant's testimony supported by her family members – Consistent evidence of dowry demands and cruelty – Acquittal of co-accused based on lack of specific incidents of cruelty – Conviction of petitioner upheld due to his primary

responsibility and consistent evidence of dowry demands [Paras 15-30].

Revisional Jurisdiction – Limited Scope – High Court emphasizes limited scope for interference in revisional jurisdiction – Revisional court’s role to correct miscarriage of justice arising from misconception of law, irregularity of procedure, neglect of proper precautions, or apparent harshness [Paras 35-37].

Medical Examination for Sentencing – Petitioner’s psycho-medical condition raised as ground for leniency in sentencing – Court directed medical examination by a team including Civil Surgeon and experts from Central Institute of Psychiatry, Ranchi – Sentence to be reconsidered based on medical report [Paras 38-44].

Decision – Conviction upheld – Sentence reconsideration pending medical report – Petitioner directed to undergo medical examination on specified date [Paras 41-44].

#### **Referred Cases:**

- Rajesh Kumar Kejriwal and Others v. State of Bihar and Another, (1997) 10 SCC 524
- Priyanka Srivastav and Anr. V. State of Uttar Pradesh and Others, (2015) 6 SCC 287
- Babu Venkatesh and Ors. V. State of Karnataka and Another, (2022) 5 SCC 639
- Vivek Rai & Ors. V. State of Jharkhand and Anr., 2008 SCC OnLine Jhar 537
- Naresh Kumar v. State of Haryana, (2015) 1 SCC 797
- Jagannath Choudhary and Others, (2002) 5 SCC 659
- Ramesh Kumar Bajaj, (2009) 1 JCR 684 (Jhar)

Representing Advocates:

For the Petitioner: Mr. Rohit Roy, Advocate; Mr. Vibhor Mayank, Advocate

For the Opposite Party: Mr. Pankaj Kumar, PP; Mr. V.S. Sahay, APP

Judgement

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**17/17.05.2024** The learned counsels for the parties are present.

2. The petitioner has challenged the legality, propriety and correctness of the Judgment dated 01.03.2019 passed by the learned Additional Sessions Judge-XIII, Jamshedpur, East Singhbhum in Criminal Appeal No.129 of 2018 whereby and whereunder the appeal preferred by the petitioner has been dismissed with modification of the default sentence in the matter of payment of fine. The petitioner has been convicted and sentenced by the learned trial court vide judgment and order dated 11.05.2018 passed by the learned Judicial Magistrate, 1<sup>st</sup> Class, Jamshedpur in G.R. Case No.1879 of 2008 whereby the petitioner has been held guilty under Section 4 of the Dowry Prohibition Act and sentenced to undergo Simple Imprisonment for 6 months with fine of Rs.5,000/- with default clause.

3. Altogether four persons faced the trial but only the petitioner (husband) has been convicted and others have been acquitted by the trial court.

**Arguments on behalf of the Petitioner**

4. The learned counsel for the petitioner submitted that the petitioner has been convicted only for the offence under Section 4 of Dowry Prohibition Act. He relied upon the judgement passed by the Hon'ble Supreme Court reported in **(1997) 10 SCC 524 (Rajesh Kumar Kejriwal and Others Vs. State of Bihar and another)** and submitted that there has been no sanction for prosecution and therefore, the impugned judgements are vitiated in law and call for interference under revision jurisdiction.

5. The learned counsel further submitted that the proceeding in the present is hit by the judgement passed by the Hon'ble Supreme Court in the case of **Priyanka Srivastav and Anr. Vs. State of Uttar Pradesh and Others** reported in **(2015) 6 SCC 287** and this view has been reiterated by the Hon'ble Supreme Court in **Babu Venkatesh and Ors. vs State of Karnataka and Another** reported in **(2022) 5 SCC 639**. He submitted that the complaint was not filed on affidavit.

6. The learned counsel for the petitioner also submitted

that the medical condition of the petitioner has been placed on record vide affidavit dated 30.09.2021 and he referred to Annexure-2 thereof and submitted that considering the psycho-medical condition of the petitioner, no useful purpose will be served by sending the petitioner to jail. He also submitted that though the minimum sentence is prescribed under Section 4 of the Dowry Prohibition Act is six months, but power has been conferred by the same section that for adequate and special reasons, the sentence can be reduced.

7. The learned counsel for the petitioner before this Court on 16.05.2024 had submitted that the other co-accused, who stand on similar footing, have been acquitted, but the petitioner has been convicted only on account of the fact that the petitioner is the husband of the complainant.

#### **Arguments on behalf of the Opposite Party-State**

8. The learned counsel appearing on behalf of Opposite Party- State opposed the prayer and submitted that the judgement passed by the Hon'ble Supreme Court reported in **(1997) 10 SCC 524 (supra)** has been fully considered by this Court in the judgment reported in **(2008) SCC OnLine Jhar 537 (Division Bench)** in **Vivek Rai & Ors. Vs. State of Jharkhand and Anr.** and it has been held that no prosecution sanction is required for convicting a person under section 4 of the Dowry Prohibition Act. They referred to Para- 25 to 30 of the said judgement.

9. With respect to applicability of the judgement passed by the Hon'ble Supreme Court in **Priyanka Srivastav (supra)** which has been followed in the case of **Babu Venkatesh (supra)**, the learned counsel appearing on behalf of Opposite Party submitted that it is not the case where the complainant had first gone to the police station and thereafter, upon the complaint not being registered, a petition was filed for asking the police to conduct investigation. He submitted that it is a case where a complaint case was filed for the alleged offence and the Magistrate exercised his jurisdiction under Section 156(3) of Cr.P.C to send the matter for investigation. They submit that on this ground the judgement passed by the Hon'ble Supreme Court in **Priyanka Srivastav (supra)** and **Babu Venkatesh (supra)** does not apply to the facts and circumstances of the present case.

10. So far as the quantum of the sentence is concerned, they submitted that mere filing of affidavit by the petitioner would not be sufficient. The petitioner would be required to be examined by a medical

board and upon consideration of that report only, this Court may exercise appropriate power under Section 4 of the Dowry Prohibition Act to give any sentence less than six months.

**11.** At this, the learned counsel for the petitioner submitted that the petitioner would come to Ranchi on 12.06.2024 for his examination. **Findings of this Court**

**12.** The prosecution case is based on Complaint Case No. 1613/2008 presented by Smt. Rina Singh before the learned Chief Judicial Magistrate, East Singhbhum, Jamshedpur which was sent under Section 156(3) of Cr.P.C. to the Officer-in-charge, Golmuri P.S. for investigation and the case was registered as Golmuri P.S. Case No.211/2018 dated 26.08.2008 under Sections 498A, 342, 323 of the Indian Penal Code and Section 3, 4 of the Dowry Prohibition Act against Ranjit Singh (husband), Jitendra Singh, Kaushalya Devi, Sudha Devi and Lakshmi Kumari.

**13.** The Informant alleged in the complaint that she got married with the petitioner on 12.05.2005 according to Hindu rites and rituals at her parental house, Golmuri Cable town. Her father had spent

money beyond his capacity and had fulfilled all the demands as demanded by the accused persons. At the time of bidai, the petitioner and Jitendra Singh demanded Maruti Car, Colour T.V. and fridge and after much efforts, they agreed for bidai. When the Informant reached her matrimonial house, Sudha Devi and Lakshmi Devi showed their annoyance and asked her to fulfil the demands, but the Informant listened them and remained silent. Thereafter, when the accused persons pressurised her to fulfil the demand of Maruti Car, Colour T.V. and fridge to bring from her father, she refused by saying that her father is not in a condition to give these articles. Thereafter, the accused persons after making conspiracy with each other used to beat her and even stopped providing food to her. The accused persons also gave poison in the food to kill her, but she refused to take it. During this period, when the Informant conceived, the accused persons did not get her treated by any doctor and Kaushalya Devi pressurised her to sleep on the earth. When her brother went to her matrimonial house, she narrated all the ill deeds committed to her by the accused persons. On 03.02.2006, her brother took her to Jamshedpur with the permission of the accused persons where she gave birth to a female child on 03.10.2016. After one year, the petitioner and other accused persons came to Jamshedpur and repeated their old demands from her parents for her bidai, but her parents gave Rs.20,000/- cash to the accused persons for purchasing colour T.V. and promised to give Maruti Car and fridge in future. When she reached her matrimonial house, Kaushalya Devi and Lakshmi Devi started torturing her and her health condition got deteriorated day after day. When this fact came to the knowledge of her father, he went to Jharsuguda and tried to pacify the matter, but seeing no change in the behaviour of her in-laws, her father took her back to Jamshedpur on 04.08.2007. On 12.12.2007, the petitioner came to Jamshedpur and told her father to deliver the demanded articles and on assurance of her father, the petitioner took the Informant with him. After Holi festival, on 30.03.2008, the accused persons assaulted the Informant brutally in the noon and made a plan to set her on fire in the evening, but the Informant understood the conspiracy and she anyhow managed to flee away in the dark night with her child by boarding train and reached her parental house and narrated the cruelty and torture she faced to her family members. In the meantime, phone call of the petitioner came and the petitioner repeated to fulfil the demand of Maruti Car and fridge and stated that otherwise he would solemnize second marriage.

**14.** After completion of investigation, the Investigating Officer submitted Charge-sheet No.69/2009 dated 31.03.2009 against Ranjit Singh, Jitendra Singh, Kaushalya Devi, Sudha Devi and Lakshmi Kumari and the learned C.J.M., Jamshedpur took cognizance of the offence under Section 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act against them.

**15.** On 26.03.2010, the charge under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act were framed against Ranjit Singh, Jitendra Singh, Kaushalya Devi, Sudha Devi and Lakshmi Kumari which were read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried.

**16.** In course of trial, the prosecution examined altogether five witnesses in support of its case. PW-1 is Siyaram Mandal, PW-2 is Ram Chandra Singh who is the father of the Informant, PW-3 is Sanjay Singh, PW-4 is Rana Pratap Singh who is the brother of the Informant and PW-5 is Rina Singh who is the Informant herself.

**17.** PW-1 in his cross-examination admitted that he had not seen the occurrence. PW-2 is the father of the Informant and he deposed that the marriage of Informant with the petitioner was solemnized on 12.06.2005 and after the marriage, she went to her matrimonial house. After the marriage, all the accused persons started torturing her with demand of dowry and did not allow her to sleep in the night and they demanded Maruti car and fridge. On 03.02.2006, she came to Jamshedpur while she was pregnant and gave birth to a female child. In 2007, she went to her matrimonial house, but she was again tortured. A Panchayati was also held. When the complainant was ousted from her matrimonial house, she came to his house. In his cross-examination, he admitted that whatever cruelty was committed, it was told by her daughter. The car was demanded before the marriage. The police had enquired from him and he had read the Complaint. Panchayati was held in 2007, but no panchnama was prepared.

**18.** PW-3 deposed that the Informant is his sister-in-law and her marriage with the petitioner was solemnized on 12.06.2005 and cash of three lac rupees and articles of two lac rupees were given to her in-laws. The husband and the brother of the husband of the Informant had demanded fridge and car. When she went to her matrimonial house, the husband and his brother started demanding dowry and tortured her. On 03.02.2006, she had gone to her matrimonial house with the brother of the



Informant. The in-laws sent the Informant to her parental house as she was pregnant and later on, she gave birth to one daughter which was informed to her in-laws. In 2007, a compromise was reached with the accused persons. Thereafter, the father of the Informant gave Rs.20,000/- and the Informant was taken to her matrimonial house. The accused persons tried to kill the Informant by pouring kerosene oil and she fled away with her daughter from there and came to her parental house and since then, she is living at his parental house. In his cross-examination, he admitted that the Informant is his sister-in-law and he had gone to the house of the accused persons once. The Informant had told about the occurrence to her sister (wife of PW-3) and he came to know from his wife.

19. PW-4 is the brother of the Informant and he deposed that the marriage of the Informant with the petitioner was solemnized with the petitioner on 12.06.2005 as per Hindu rites and customs and at the time of bidai, car and chain were demanded from the side of the bridegroom, but the matter was pacified and the bidai was done. When the Informant went to her matrimonial house, she was misbehaved, food was not provided properly and room was not given for sleeping. The petitioner, mother-in-law, nanad (Laxmi Singh) and Jitendra Singh used to assault her. The Informant lived there for about one year and he brought her to his house in January, 2006. In 2005-06, he tried to pacify the matter, but money, car and chain were demanded from him. After one month, the petitioner came to take the Informant back, but she was again assaulted and tortured by her in-laws. In August, 2008, he again brought her to her parental house and she told that she was assaulted and food was not provided to her properly. On getting call, she was again taken to her matrimonial house. Lastly in 2008, after living for some time, when the accused persons tried to burn the Informant, she fled away and came to her parental house and since then, she is living at her parental house. In his cross-examination, he admitted that when he had gone to the matrimonial house of the Informant, he had seen the occurrence. The occurrence took place at the matrimonial house and the accused persons did not behave properly at the parental house of the informant also. He further admitted that no paper was prepared about the compromise. He further deposed that the demand was made from him and his father and also from Raju Singh and Ram Chandra Singh. He further admitted when the Informant had lastly come, he had got her treated but he has not filed any document of treatment.



20. PW-5 is the Informant of the case. She deposed in her examination-in-chief that her marriage with the petitioner was solemnized on 12.06.2005 and at the time of marriage, about Rs.5.5 lakhs was spent and after the marriage, she went her matrimonial house at Jharsugra and from the first day, her mother-in-law Kaushalya Devi, Jeth Jitendra Singh, Jethani Sudha Devi, Nanad Lakshmi and husband Ranjit Singh started telling her that her father had told to give Maruti Car, Colour T.V and Fridge, but did not give and for that reason, they used to torture her physically and mentally. She told the matter to her parents and when her father came, she told the same to him and her father told her in-laws to keep her daughter properly and he will fulfill their all demands, but the behaviour of her in-laws did not change and they used to torture and assault her. Thereafter, her brother Rana Pratap Singh came to her matrimonial house in February, 2006 and he tried to pacify her in-laws and told them that he will fulfill their demands and got her bidai and on 03.02.2006, she came to Jamshedpur with her brother and gave birth to her daughter at TINPLATE Hospital, but none of her in-laws came to see her daughter. In February, 2007 Ranjit Singh and Jitendra Singh came to Jamshedpur and repeated their demands and then her father gave twenty thousand rupees in cash to them and then only they took her bidai. She further deposed that after reaching matrimonial house, they again misbehaved with her and taunted for having given birth to a girl child and even stopped giving food to her and her health deteriorated. One day she heard that her in-laws were making plan to kill her by setting her on fire and then she fled away with her daughter from there to Jamshedpur to save her life and since then, she has been living at her parental house. She further deposed that she was in belief that her in-laws would come to take her back, so she filed the case on 26.8.2008 after some delay. The complainant exhibited the Complaint as Exhibit-1. In her cross-examination, she deposed that the demand of dowry was regularly made from her and her family members also. She admitted that she had not undergone any treatment for the assault. Her statement was recorded by the police on the next day after lodging the case in the Court and Raju Singh and Rana Pratap Singh were made as witnesses as she talked about the incident to both the persons. Raju Singh is her brother-in-law. She further deposed that she had alone come with her daughter from her matrimonial house because the accused had planned to commit her murder which she told to her family members. She had seen the articles

which her father had given in marriage and cash of rupees three lakhs was also given to the accused persons which was told to her by her father. She lodged the case after returning from her matrimonial house in 2008. She denied the suggestion that no such occurrence had taken place and after coming under pressure of her family, she had filed the case.

21. Due to death of Kaushalya Devi on 07.01.2017, the proceeding against her was dropped on 18.04.2018 and on the same day, the statements of the petitioner and co-accused persons were recorded under Section 313 of Cr.P.C. wherein they denied the incriminating evidences put to them and claimed to be innocent and the petitioner stated that he wanted to keep the informant.

22. The petitioner and co-accused persons did not adduce any oral or documentary evidence in their defence.

23. The learned trial court considered the oral and documentary evidences and recorded its findings in Para-15 and 16 which reads as under:

*“15. The evidence brought forth by the witnesses examined by the prosecution. It is correct that all the witnesses are related to the informant. This is a matrimonial dispute and an incident which has occurred behind closed door can only to known to the close persons to the informant or the informant herself. The witnesses have deposed that there was demand of dowry since the date of marriage even before the bidai the accused persons and the husband demanded car and fridge. The father and the brother have deposed in their statements that such dowry demands were demanded to them at the time of marriage and even when they visited the informant at her sasural the accused persons demanded the dowry of car, fridge and cash. These are specific demands of dowry from the informant and her father and brother. Thus, it can be said that there was demand of dowry of a car, fridge and cash from the husband. The other charges of section 498A and Section 3 Dowry Prohibition Act which suggests that the accused persons had inflicted cruelty upon the informant as there are no specific incidents of cruelty meted to the informant. Section 498A I.P.C is not made out as against the accused persons, The allegations u/s 498A 1.P.C are general and not specified. Even the witnesses have stated that there was ill treatment or misbehaviour of the accused persons with the informant, but the witnesses or the informant has not specified as to what kind of cruelty is meted out to the informant. The cruelty within section 498A has been explained in the Explanation to section 49BA. It consists of*

*2 clauses. To attract section 498A I.P.C., it must be established that the cruelty or harassment to wife was to force her to cause grave bodily injury to herself or commit suicide or the harassment was to compel her to fulfill illegal demands for dowry. It is not every type of cruelty that will attract section 498A I.P.C. The allegations alleged by the informant are very general and cannot be such that there was harassment upon her to cause her grave and bodily injury or commit suicide. The informant has not specified what all incidents took place what were the harassment that would attract section 498A I.P.C. Section 3 of the D.P Act there is no evidence to show that the accused persons received any articles of dowry demanded by them. There is no such documentary or other evidence to prove the same. The allegations are not supported by any oral or documentary evidence.*

*16. Hence on the basis of witnesses examined and the evidence on record, only accused no.1 husband Ranjit Singh only is found and held guilty for offence u/s 4 of Dowry Prohibition Act.*

*Therefore on the basis of above discussion this court is of the consideration that the prosecution has able to prove the charge of offences u/s 4 of Dowry Prohibition Act against the accused person no.1 Ranjit Singh, the husband only in this case. Accordingly, the accused persons, Jitendra Singh, Sudha Devi and Lakshmi Devi are acquitted from the above charges and their bailors are Discharge and Ranjit Singh is hereby convicted for the offence u/s 4 of Dowry Prohibition Act.”*

**24.** The learned trial court found that the offence under Section 498A of the Indian Penal Code is not made out against the accused persons and further acquitted Jitendra Singh, Sudha Devi and Laxmi Devi from all charges and convicted the petitioner-husband only for the offence under Section 4 of the Dowry Prohibition Act and sentenced him to undergo Simple Imprisonment for 6 months with fine of Rs.5,000/- and in default of payment of fine, to undergo further imprisonment for one year.

**25.** The learned appellate court also scrutinized evidences available on record and recorded its findings at Para-18 and 19 which read as under:

*“18. On perusal of entire prosecution case and evidences available on record, I find that after three years of the marriage, the complaint case was filed in court. All the alleged tortures occurred at Jharsuguda Orissa. But there is clear statement of complainant in paragraph 11 of complaint*

*petition that her husband came to her Maika on 12.12.2007 and he again repeated demand of dowry from her father. ....*

**19.** *Learned trial court in her judgment has acquitted all other accused persons but this appellant, husband of the complainant has been found guilty and convicted for the offence u/s 4 of Dowry Prohibition Act. After considering entire evidences available on record, I also find that prosecution witnesses have generally supported that this appellant/accused has continued his demand for car fridge etc. Informant has said that due to non-fulfillment of demand, she was subjected to various types of bad treatment. Under section 4 of Dowry Prohibition Act, mere demand for dowry before marriage, at the time of marriage or any time after the marriage is an offence. Demand of dowry has been established against this appellant/accused, therefore he has been rightly convicted for the offence under section 4 of Dowry Prohibition Act. Learned trial court has awarded sentence of Simple Imprisonment for six months with a fine of Rs. 5,000/- for the offence u/s 4 of D.*

*P. Act and in default of payment of fine convict is to further undergo Imprisonment for one year. Learned trial court has heard both sides on the point of sentence and after considering all aspects has awarded sentence. Sentence awarded by learned trial court is also proper in the facts and circumstances of this case except sentence in default of depositing the fine amount. This portion of sentence requires modification and in default of payment of fine of Rs.5000/-, the convict shall be liable to further imprisonment of one month.*

*I do not find any illegality or infirmity in findings of learned court in judgment of G.R. Case No. 1879/2008, it does not require any interference from this court therefore this judgment is affirmed and upheld with modification in part of sentence as stated above.”*

**26.** The learned appellate court affirmed the judgment of conviction and the order of sentence of the petitioner and dismissed the appeal, with modification of the default clause that in default of payment of fine, the convict shall undergo further imprisonment for one month.

**27.** After hearing the learned counsel for the parties and going through the impugned judgments and the records of the case, this Court finds that the Informant (PW-5) has fully supported her case in her evidence stating that from the first day itself when she went to her matrimonial house, the petitioner and his other family members demanded Maruti Car, Colour T.V and Fridge from her and tortured her physically and

mentally. In February, 2007, the petitioner and his brother Jitendra Singh came to Jamshedpur and repeated their demands and then her father gave twenty thousand rupees in cash to them and then they took her bidai. She further deposed that after reaching her matrimonial house, they again misbehaved with her and taunted her for giving birth to a daughter and even stopped giving food to her and her health deteriorated. In her cross-examination, at Para-14, PW-5 stated that she had told about the demand of dowry by from her in-laws to PW-4 Rana Pratap Singh and at Para-18, she has stated that she had informed about the plan of the accused persons to kill her to her family members at her matrimonial house.

**28.** This Court further finds that PW-4 brother, PW-3 brother-in-law and PW-2 father of the Informant have fully corroborated the evidence of the Informant with regard to demand of dowry by the petitioner from the Informant and her father and brother. The defence has failed to elicit any material facts from PWs-2, 3, 4 and 5 during their cross-examination to discredit their testimony. This Court is of the considered view that the prosecution has successfully proved the case against the petitioner for the offence under Section 4 of the Dowry Prohibition Act.

**29.** This Court finds that the petitioner Ranjit Singh is the husband of the complainant; Jitendra Singh is the brother of Ranjit Singh and Sudha Devi is the wife of Jitendra Singh. So far as Lakshmi Devi is concerned, she is the mother-in-law who expired at the stage of trial. So far as Jitendra Singh and Sudha Devi are concerned, they are husband and wife and Jitendra Singh in his explanation while recording his statement under section 313 Cr.P.C had specifically stated that he lived separately. This Court finds that there is consistent evidence on record that there was demand of dowry from the informant and her family members. It has been argued by the petitioner that on the same set of evidence, Jitendra Singh (brother of the husband) has been acquitted and Ranjit Singh (the husband) has been convicted. This Court is of the considered view that the case of the husband cannot be compared to that of the brother of the husband as their status and responsibilities are different and further in the present case the brother of the husband had also stated in his statement at 313 that he lived separately. So far the parity between the husband of victim and brother-in-law of victim is concerned, the Hon'ble Supreme Court in the case of ***Naresh Kumar v. State of Haryana, (2015) 1 SCC 797*** at Para-14, has observed as under:

*"14. As regards the claim for parity of the case of the appellant with his*



*mother and brother who have been acquitted, the High Court has rightly found his case to be distinguishable from the case of his mother and brother. The husband is not only primarily responsible for safety of his wife, he is expected to be conversant with her state of mind more than any other relative. If the wife commits suicide by setting herself on fire, preceded by dissatisfaction of the husband and his family with the dowry, the inference of harassment against the husband may be patent. Responsibility of the husband towards his wife is qualitatively different and higher as against his other relatives.”*

**30.** Considering the totality of the facts and circumstances of the case, acquittal of brother of the petitioner and his wife has no bearing in the matter and does not call for any interference in revisional jurisdiction of this court.

**31.** So far as the judgment relied upon by the petitioner passed in the case of **Priyanka Srivastava (supra)** reported in **(2015) 6 SCC 287** which has been also followed subsequently by the Hon'ble Supreme Court, this Court finds that the said judgment does not apply to the present case in view of the fact that in the present case, the complainant never made a prayer before the learned Magistrate in the complaint to send the matter for investigation by police. Rather it was the court itself who found it proper to send the matter for investigation by police by exercising judicial power under section 156 (3) of Cr.P.C. In paragraph no.29 of the aforesaid judgment, it has been held that the litigant on his own whim cannot invoke the authority of the Magistrate and the power under section 156 (3) of Cr.P.C warrants application of judicial mind. In view of the aforesaid distinguishing feature that the complainant never made any prayer to the Magistrate to invoke power under section 156 (3) Cr.P.C rather the Magistrate himself considering the facts passed appropriate order under section 156 (3) of Cr.P.C for sending the matter for lodging FIR and investigation by police, the said judgment does not apply to the facts of this case and does not help the petitioner in any manner.

**32.** So far as the argument of the petitioner on the point of sanction for prosecution by referring to the judgement passed by the Hon'ble Supreme Court reported in **(1997) 10 SCC 524** is concerned, it has to

be considered with the judgment passed in the case of ***Vivek Rai (supra)***.

**33.** In the judgment passed by Hon'ble Division Bench of this Court in the case of ***Vivek Rai and others in Cr.M.P. No.242 of 2007*** decided on 04.08.2008, the issue for consideration which was referred to the Hon'ble Division Bench was ***“as to whether section 4 of Dowry Prohibition Act as amended by Bihar Act IV of 1976 stood repealed or modified in view of the subsequent amendment of Section 4 of the Dowry Prohibition Act by the Parliament by Act 63 of 1984?”***

The question was referred to the Hon'ble Division Bench on account of the fact that there was conflicting view of two single benches and there was a dispute as to whether a prior sanction was required for taking cognizance for offence under section 4 of the Dowry Prohibition Act. While considering the said point, the Hon'ble Division Bench considered large number of judgments including the judgment passed by Hon'ble Supreme Court in the case reported in ***(1997) 10 SCC 524*** which has been heavily relied upon by the learned counsel for the petitioner in the present case. The Hon'ble Division Bench ultimately held that there is no requirement to take prior sanction for launching prosecution under section 4 of the Dowry Prohibition Act. The findings and discussion by the Hon'ble Division Bench as contained in paragraph no.24 to 31 are quoted as under:

*“24. In the light of the decisions of the Supreme Court, it has to be considered in this case as to whether the provision Section 4 of the Central Law, i.e. Act 63 of 1984 and the State Law, i.e. Bihar Act IV of 1976 are in respect of the same matter and whether the two laws operate in the same field. It has to be kept in mind that if it is found that the State law deals not with the matters, which formed the subject of the Central Legislation but with other and distinct matter then in that case Article 254(2) of the Constitution of India will have no application but if it is found that both the laws, i.e. the Central Law and the State Law are in respect of the same matter and they are operating in the same field then Article 254(2) of the Constitution of India shall at once comes into play.*

**25.** *Section 4 of the Dowry Prohibition Act, 1961, is comprehensive Code covering the field of punishment for the offences under the Act and the procedure has been prescribed therein for launching prosecution. In the Central law, i.e. Dowry Prohibition Act 1961 as it stands today after amendment made in the year 1984 by Acts 63 of 1984, now there is no requirement for obtaining prior sanction of the Government for launching prosecution under Section 4 of the Dowry*



*Prohibition Act, whereas in the State Law as amended by Bihar Act IV of 1976, such requirement of prior sanction of the Government for launching prosecution under section 4 of the Act is still there. The provision of Section 4 of the Dowry Prohibition Act, 1961 made by the Parliament and Section 4 as amended by Bihar Act IV of 1976 made by the State Legislature are, therefore, clearly in respect of the same matter and they are operating in the same field because for the purpose of launching prosecution under section 4 of the Dowry prohibition Act, the Central Law does not speak about the requirement of prior sanction, whereas the State Law envisages that prior sanction of the Government is required to be taken before launching prosecution.*

26. *In this view of the matter, we hold that Section 4 as amended by Bihar Act IV of 1976 cannot prevail as against Section 4 of the Central Law as amended by Act 63 of 1984 because there is direct conflict in between the two laws since both the laws are operating in the same field and, as such, the two laws cannot possibly stand together. Therefore, the State law, i.e. proviso to Sec. 4 of the Bihar Act IV of 1976, requiring previous sanction of the State Government or such officer as the State Government may, by general or special order, specify in this behalf is held to be repugnant to the Union Law, i.e. the Central Law and, as such, is void and It would be deemed to have been repealed.*

27. *A Division Bench of the Patna High Court in the case of “Deo Narayan Lall Das v. State of Bihar, reported in 1992 (2) PLJR 560, has also held in the same line and has stated that Act 63 of 1984 enacted by the Parliament being a later law with respect to the same matter would prevail over the State law.*

28. *In the judgment of the single Bench of this Court in the case of “Gautam Joshi v. State of Jharkhand, reported in 2003 (3) JCR 602 (Jhar),” the learned single Judge of this Court after relying the decision of the Patna High Court in Deo Narayan Lall Das case (supra) has also held that no prior sanction to take cognizance of the offence under section 4 of the Dowry Prohibition Act is required. The view taken by the learned single Judge is correct.*

29. *So far as the decision of the another single Judge of this Court in the case of “Sanjay Pd. Sinha alias Sanjay Kumar Sinha v. State of Jharkhand” passed in Cr. M.P. 436/2006 is*

concerned, it appears that the said judgment was passed wholly on the basis of the decision in the case of “Saranan Chattopadhyay v. State of Bihar (now Jharkhand) reported in 2006 (1) JCR 101 : (2006 (1) AIR Jhar R 162)” but we find that in “Saranan Chattopadhyay” (supra) case, no point of law was decided rather in the said case the argument was advanced on behalf of the petitioner that prior sanction is required to be taken for launching prosecution in view of the Bihar amendment by Bihar Act IV of 1976 relying on the decision of the Supreme Court in the case of “Rajesh Kumar Kejriwal v. State of Bihar, reported in (1997) 10 SCC 524.” It appears that in the said case the counsel for the opposite parties conceded on that point. It also appears that in the said case it was held that though the point with regard to requirement of prior sanction was raised before the learned trial Court at the time of framing of charge but the trial Court did not touch the point and, therefore, it was held by the single Judge that the order refusing to discharge, passed in the said case by the trial Court, suffered from non- application of mind.

30. Now, so far as the decision of the Supreme Court in the case of “Rajesh Kumar Kejriwal v. State of Bihar, reported in (1997) 10 SCC 524” is concerned, in our view, the submission of the learned counsel for the opposite parties is correct that in the said case this point was not raised before the Supreme Court as to what would be the effect of the proviso to Sec. 4 of the State Act as amended by Bihar Act IV of 1976 after the enactment of Central Law by way of amended Act 63 of 1984. In this case it was only held after noticing the State amendment made in Section 4 of the Dowry Prohibition Act that requirement of prior sanction for launching prosecution was there. The Central amendment made by the Parliament by Act 63 of 1984 was not placed before the Supreme Court and, therefore, the point as to whether there is a conflict in between the Central law and the State law was neither raised nor decided in the said case. In this view of the matter, in our view the aforesaid decision of the Supreme Court in “Rajesh Kumar Kejriwal's case (supra) is not a decision on the point in issue raised before us.

31. In view of the discussions and findings above, the question referred by the learned single Judge is answered in affirmative for the reason stated hereinabove and the petition to quash the criminal proceeding pending in the Court below is dismissed and it is held that after the enactment of the amendment in the Central Law i.e. Dowry

*Prohibition Act, 1961 by Act 63 of 1984, now there is no requirement for taking prior sanction of the State Government or such Officer as the State Government may, by general or special order, specified on that behalf for launching prosecution under Section 4 of the Dowry Prohibition Act. It is also held that the State law i.e. the proviso to Sec. 4 of the Bihar Act IV of 1976, requiring previous sanction of the State Government or such officer as the State Government may, by general or special order, specify in this behalf is held to be repugnant to the Union Law, i.e. the Central Law and, as such, is void and it would be deemed to have been repealed.”*

In view of the aforesaid judgment passed by the Hon'ble Division Bench distinguishing the judgement passed in the **(1997) 10 SCC 524**, this Court is of the considered view that no sanction for prosecution was required for conviction of the petitioner under section 4 of the D.P. Act. Accordingly, the arguments of the petitioner on this point are also rejected.

**34.** This Court further finds that both the learned courts have carefully scrutinized the materials on record and have found sufficient and consistent evidence to hold the petitioner guilty for the offence under Section 4 of the Dowry Prohibition Act. All the grounds raised by the petitioner seeking interference in the impugned judgement of conviction have been rejected as above.

35. The Hon'ble Supreme Court has explained the power of revisional court in the case of **Jagannath Choudhary and others reported in (2002) 5 SCC 659** at Para-9 as under:-

*“9. Incidentally the object of the revisional jurisdiction as envisaged under Section 401 was to confer upon superior criminal courts a kind of paternal or supervisory jurisdiction, in order to correct miscarriage of justice arising from misconception of law, irregularity of procedure, neglect of proper precautions or apparent harshness of treatment which has resulted on the one hand in some injury to the due maintenance of law and order, or on the other hand in some undeserved hardship to individuals. (See in this context the decision of this Court in Janata Dal v. H.S. Chowdhary [(1992) 4 SCC 305: 1993 SCC (Cri) 36]). The main question which the High Court has to consider in an application in revision is whether substantial justice has been done. If however, the same has been an appeal, the applicant would be entitled to demand an adjudication upon all questions of fact or law which he wishes to raise, but in revision the only question is whether*

*the Court should interfere in the interests of justice. Where the court concerned does not appear to have committed any illegality or material irregularity or impropriety in passing the impugned judgment and order, the revision cannot succeed. If the impugned order apparently is presentable, without any such infirmity which may render it completely perverse or unacceptable and when there is no failure of justice, interference cannot be had in exercise of revisional jurisdiction.”*

**36.** The revisional power is further explained in the case of **Ramesh Kumar Bajaj reported in (2009) 1 JCR 684 (Jhar)** at Para-13 as follows:

*“13. It is well settled that revisional interference may be justified where:*

- (i) the decision is grossly erroneous.*
- (ii) there is no compliance with the provisions of law.*
- (iii) the finding of fact affecting the decision is not based on evidence.*
- (iv) material evidence of the parties is not considered and*
- (v) judicial discretion is exercised arbitrarily or perversely.”*

**37.** Considering the entire facts and circumstances of the case and the limited scope for interference in revisional jurisdiction, this Court does not find any material irregularity or perversity to interfere with the conviction of the petitioner under Section 4 of the Dowry Prohibition Act. Accordingly, the impugned judgment impugned judgement passed by the learned appellate court upholding the judgment of conviction of the petitioner is upheld.

**38.** So far as sentence is concerned, there is no dispute that the minimum sentence prescribed is 6 months but the petitioner has taken a ground of psycho-medical illness and the learned counsel for the petitioner has also submitted during the course of hearing that the petitioner would come to Ranchi on 12.06.2024 for his examination.

**39.** This Court is of the considered view that before exercising any power to give any punishment less than 6 months, the psycho-medical condition of the petitioner is required to be examined.

**40.** Accordingly, the petitioner is directed to appear in the office of the Civil Surgeon, at Sadar Hospital, Ranchi on **12.06.2024** and the petitioner be examined on the same day by the Civil Surgeon, Ranchi

and Psychiatric appointed for this purpose by the Director, CIP (Central Institute of Psychiatry) Kanke, Ranchi. A report be prepared and be filed by the State on affidavit. The medical report should clearly indicate as to whether the petitioner, if sent to jail, will be in position to take care of himself so far as basic necessities are concerned. The Civil Surgeon, Ranchi may appoint a team of doctors for the purpose and such should include the Civil Surgeon, expert from CIP, Ranchi and a few doctors as may be deemed proper.

**41.** Post this case on **26.06.2024** awaiting the report of psycho medical examination of the petitioner.

**42.** So far as the sentence is concerned, appropriate order will be passed upon receipt of the report of psycho- medical examination of the petitioner.

**43.** The learned counsel for the State is directed to forward a copy of this order to the Civil Surgeon, Ranchi for needful. Office is also directed to forward the copy of this order to the Civil Surgeon, Ranchi and to the Director, CIP, Kanke, Ranchi.

**44.** Let this matter be treated as part heard and the matter is being posted only for the purposes of consideration of the sentence of the petitioner.

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