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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA**

ON THE 25th OF JANUARY, 2024

CRIMINAL REVISION No. 939 of 2012

BETWEEN:-

**RAJESH KUMAR S/O TEJULAL, AGED ABOUT 25 YEARS,
OCCUPATION: LABOUR TRILOK
NAGAR, ITAWA, DISTT. DEWAS (MADHYA PRADESH)**

.....PETITIONER

(NONE FOR THE APPLICANT)

AND

**THE STATE OF MADHYA PRADESH GOVT.
THRU. DISTRICT MAGISTRATE, UJJAIN (MADHYA
PRADESH)**

.....RESPONDENT

(BY SHRI AJAY RAJ GUPTA, LEARNED PUBLIC PROSECUTOR)

*This revision coming on for orders this day, the court passed the
following:*

ORDER

1. This Court issued non-bailable warrant on 05.02.2020. A report has been received that on the said date, the applicant is not residing on the given address because of incomplete address. From the order-sheet, it is noted that on 17.06.2016, 30.08.2017, 01.11.2017, 05.12.2017, 12.03.2018, 26.04.2018 and 05.02.2020, no one appeared on behalf of the applicant. Today also the case is called twice and there is no representation on behalf of the applicant.

2. Case is also examined on merit.

3. The present revision is filed under section 397 r/w 401 of the Cr.P.C. being aggrieved by the judgment passed by ASJ, Ujjain in Criminal Appeal

No.291/2011 on 28.08.2012 whereby the learned Judge allowed the appeal filed by the State against the acquittal of the applicant and set aside the judgment passed by ACJM, Tarana, Dist. Ujjain in Criminal Case No.738/2008 on 05.04.2011 wherein the learned Judge acquitted the applicant under sections 498-A & 506(2) of IPC.

4. Applicant was convicted under section 498-A of IPC and sentenced to undergo RI for 1 year and fine of Rs.500/-. In case of default of payment of fine, he shall undergo 2 months additional rigorous imprisonment.

5. As per prosecution case on 20.01.2005 complainant Chandabai have lodged a report a P.S. Kaytha against her husband Rajesh (present applicant) father-in-law Tejulal and mother-in-law Shyamubai that her marriage was solemnised 5 years back with Rajesh and she has no issue, from 2 years her husband starting cruelty with her and started demand of dowry of Rs.50,000/-. About 1 1/2 month back her mother came to take her. At that time applicant and his parents refused to send her with her mother and abused them. Thereafter, at Sakranti festival also her mother came to take her at that time she was sent with her mother by the accused persons and threatened to her that if she does not bring Rs.50,000/-, don't come, otherwise they will kill her.

6. On the report of the complainant, offence U/s.498-A, 506(2) of IPC has been registered at P.S. Kaytha against the present applicant and his parents and after usual investigation charge-sheet has been filed before the trial Court. The learned trial Court after framing of charge started the trial against the applicant and his parents and acquitted them.

7. The State has filed an appeal against their acquittal before the learned Sessions Judge, Ujjain and in appeal learned Sessions Judge partly allowed the

appeal and maintained the acquittal of Tejulal and Shyamubai and convicted the applicant under section 498-A of IPC.

8. The petitioner along with other co-accused persons were charged under section 498-A & 506 of IPC. By order dated 05.04.2011 passed by Additional Chief Judicial Magistrate, Tarana, Dist. Ujjain in Criminal Case No.738/08 he was acquitted of the charges along with the other accused persons. The State filed an appeal against the acquittal and by impugned order dated 28.08.2012 the appeal against acquittal so far appellant is concerned has been allowed partly and the applicant has been convicted as mentioned hereinabove.

9. Upon perusal of the impugned order and the statement of complainant Chandabai (PW-2) and other witnesses PW-7 Dayaram, PW-8 mother Tejubai a specific averment has been made that after the marriage, the applicant, who is husband of the complainant has kept her properly and thereafter he started demanding 15,000 rupees which was given to him and thereafter he had started demanding Rs.50,000/- and when the amount was not given, he started subjecting the complainant to the cruelty. It is also alleged that even the applicant forced the complainant to drink urine and she was beaten in a naked condition. The Magistrate has disbelieved the testimony of these witnesses and the complainant on the ground that there are contradictions in the statement of the complainant and other witnesses.

10. After perusal of the record and the aforesaid evidence, I do not find any illegality in the order of conviction passed by the appellate Court. The offence under section 498-A of IPC has been established by the testimony of complainant and other witnesses. Thus, the conviction of the applicant is maintained.

11. Case is also considered on sentence. The incident is alleged to have taken place between the applicant and the prosecutrix in the year 2005. The applicant has remained in jail from 07.02.2005 to 16.02.2005 during the trial.

12. In view of the aforesaid, this Court is of the considered view that no purpose would be served in sending the applicant to jail after such long period. Hence, the jail sentence of the applicant is reduced to the period already undergone. However, the fine amount of Rs.500/- is enhanced to Rs.15,000/- which shall be deposited by the applicant within a period of three months from today. Out of Rs.15,000/-, the enhanced amount of Rs.10,000/- shall be paid to the complainant by the trial Court. If the enhanced fine amount as compensation is deposited within the said period, the bail bonds of the applicant shall be discharged and if the enhanced fine amount is not deposited, the applicant shall undergo the remaining jail sentence as per the order of the appellate Court.

13. With the aforesaid, the revision is partly allowed and disposed off.

(VIJAY KUMAR SHUKLA)
JUDGE