

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR No.24 of 2015 (O&M)
Date of Decision: March 11, 2015**

Jagjit Singh

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sandeep Arora, Advocate for the petitioner.
Mr. Nikhil K. Chopra, Deputy Advocate General, Punjab.
Mr. Navjit Sodhi, Advocate for the complainant.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment? **Yes***
- 2. To be referred to the Reporters or not? **Yes***
- 3. Whether the judgment should be reported in the Digest? **Yes***

Kuldip Singh J.(Oral)

Challenged in the present revision petition is the judgment dated 10.12.2014 passed by learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur, affirming the judgment and order dated 19.11.2013 passed by learned Judicial Magistrate 1st Class, Gurdaspur, vide which the present revisionist was convicted under Sections 498-A of the Indian Penal Code, 1860 (in short 'IPC') and sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹2,000/-, in default thereof to undergo further rigorous imprisonment for one month. At the same time, the learned Magistrate had acquitted the co-accused, namely, Santokh Singh, Krishanjit Kaur and Harjit Kaur, father-in-law, mother-in-law and sister-in-law of the complainant of the charges framed against them.

The present revisionist was also acquitted of the charges under Sections 494, 323 and 406 IPC. By the same judgment, learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur also dismissed the appeal filed by the State, challenging the acquittal of Santokh Singh, Krishanjit Kaur and Harjit Kaur.

As per prosecution case, the complainant was married with accused-revisionist Santokh Singh on 29.01.2007. It is stated that at the time of marriage, ten tolas of gold ornaments, washing machine, almirah, television, cash, clothes and ₹20,000/- etc. were given as dowry. After one month of the marriage, accused-revisionist left for foreign country and returned back after one year. The accused-revisionist then told the complainant that he had to go to America from Moscow and needed ₹10,00,000/- (rupees ten lacs only) and asked her to bring the said amount from her parents. The complainant told the accused-revisionist that her parents are unable to pay such huge amount. On this, the accused-revisionist started teasing, taunting and harassing the complainant.

After staying for two months, the accused-revisionist again went back to the foreign country and threatened that if ₹10,00,000/- are not arranged, he will re-marry in the foreign country. After the departure of the accused-revisionist, the in-laws of the complainant started teasing, taunting and maltreating her. The intervention of the Panchayat proved fruitless. Due to this tension, father of the complainant died in August 2008.

On 14.01.2009, the accused-revisionist again returned

from the foreign country accompanied by one foreigner lady, who was living with him as wife. The accused-revisionist (husband) used to beat the complainant on several occasions and foreigner lady used to laugh. The complainant further claimed that her father-in-law Santokh Singh, Krishanjit Kaur, mother-in-law and Harjit Kaur, unmarried sister-in-law and her husband-accused/revisionist used to beat her and forced her to leave the matrimonial home. On 07.02.2009, her in-laws turned her out from the matrimonial home and inflicted injuries on her head.

During investigation, Santokh Singh, Krishanjit Kaur and Harjit Kaur were found innocent and only the accused-revisionist was challaned. However, later on, on the application of the prosecution under Section 319 Cr.P.C., they were again summoned to face trial. All the accused were charge-sheeted under Sections 498-A, 494, 323 and 406 IPC, to which they pleaded not guilty.

In support of its case, the prosecution examined xHarjit Kaur (complainant) as PW1, ASI Harbans Singh as PW2, Nirmal Singh as PW3, ASI Banarsi Dass (retired) as PW4, Dr. Mohinder Singh Jassal as PW5, Bachan Singh (retired Inspector) as PW6, Charanjit Singh as PW7 and SI Gulzar Singh as PW8.

When examined under Section 313 Cr.P.C., the accused pleaded innocence.

In defence, the accused examined Joginder Singh as DW1, Gurdeep Kaur as DW2, Joginder Kaur as DW3 and also produced the medical certificate of Santokh Singh and medical

record of Krishanjit Kaur and closed their defence evidence.

After hearing the learned Asstt. Public Prosecutor for the State, learned counsel for the accused and going through the case file, learned Judicial Magistrate 1st Class, Gurdaspur, acquitted of the accused-revisionist of the charges under Sections 494, 323 and 406 IPC. However, he was convicted and sentenced under Section 498-A IPC as aforesaid. The remaining accused were acquitted of all the charges.

The said judgment and order of the learned Judicial Magistrate 1st Class, Gurdaspur was upheld in appeal by the learned Addl. Sessions Judge (Adhoc) Fast Track Court, Gurdaspur.

I have heard learned counsel for the parties and have also carefully gone through the case file.

In this case, the accused-revisionist has been convicted under Section 498-A IPC. Therefore, this Court will confine to the discussion under Section 498-A IPC. The allegations regarding cruelty are that after one year of the marriage, when the accused-revisionist returned from the foreign country, he demanded ₹10,00,000/- from the complainant, saying that he had to go to America from Moscow. On account of non-payment of the said amount, the complainant was teased, harassed and threatened by the accused-revisionist that he would re-marry in the foreign country. Then it is stated that on 14.01.2009, the accused-revisionist brought a foreigner lady with him and used to beat the complainant in her presence.

Section 498-A IPC reads as under:

“Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

A perusal of sub Sections shows that for conviction under Section 498-A IPC, the husband or relative of husband of a woman subjects her to cruelty. The work 'cruelty' has been further defined as a wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) or the woman; or harassment of the woman where such harassment is with a view to coercing her or any person related to her o meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Now, it is to be seen whether the alleged demand of ₹10,00,000/- and the conduct of the accused-revisionist in bringing foreigner lady and beating his wife (complainant) in her presence and later on teasing her is covered under Section 498-A IPC.

Learned counsel for the accused-revisionist has argued that the demand of ₹10,00,000/- is based on the oral evidence of the complainant and the same cannot be believed.

I am of the view that in this case, there is only oral statement of the complainant that ₹10,00,000/- were demanded from the complainant so that the accused-revisionist could shift from Moscow to America.

Learned counsel for the accused-revisionist has further argued that the accused-revisionist belongs to a respectable family. He is running own shop at Moscow whereas younger brother is residing in America. His other sister is also married. The accused-revisionist had come from Moscow to solemnize marriage with the complainant. It was a simple marriage. Even after the marriage, the accused-revisionist supported the complainant in completing her education. The complainant had completed her M.A. after the marriage. The expenses of her study were borne by the father-in-law of the complainant.

This stand of the learned counsel for the accused-revisionist does not indicate that the accused-revisionist has no intention to shift from Moscow to America for greener pastures where the business avenues are much more than in Moscow.

Even if, it is assumed for the sake of arguments that the allegations regarding demand of ₹10,00,000/- cannot be believed but the cruelty is not confined to the physical cruelty but to the mental cruelty as well. It is specifically mentioned that the complainant-wife

was beaten up on several occasions. On 14.01.2009, the accused-revisionist had brought a foreigner lady, who used to live with him as wife. though the complainant failed to prove the charges punishable under Section 494 IPC.

The accused-revisionist had brought a foreigner lady, who was living with him as if she is married wife. It amounts to mental cruelty. The wilful conduct of the accused-revisionist could drive the complainant to commit suicide. No lady will tolerate that her husband brings a foreigner lady with him and live with her as husband. It may drive the wife to commit suicide or cause grave injury or to endanger the life. Therefore, such conduct would attract the rigour of sub Section (a) of Section 498-A IPC.

Before the trial court, the complainant had examined the doctor, who had conducted the X-ray of the injuries on the person of the complainant. It goes to show that though the complainant failed to prove the injuries but it does indicate that she was mentally and physically tortured that why she had approached the doctor. The X-ray of the two injuries were conducted, showing that there must be some injuries.

In these circumstances, I am of the view that both the courts below have rightly held that the accused-revisionist had committed the offence punishable under Section 498-A IPC. Therefore, his conviction under Section 498-A IPC is upheld.

Faced with these circumstances, learned counsel for the accused-revisionist has prayed for reduction in the sentence. It has

been argued that the only allegations proved against him are of bringing foreigner lady and physically and mentally torturing the complainant. The sentence awarded to the accused-revisionist is three years, which is maximum provided under the offence and is quite harsh.

I agree with the submission of learned counsel for the accused-revisionist. Therefore, the sentence of imprisonment of three years awarded to the accused-revisionist under Section 498-A IPC is reduced from three years to 1-½ years.

With the aforesaid modification, the present revision petition is dismissed. However, the remaining part of the sentence kept intact.

March 11, 2015
sarita

(KULDIP SINGH)
JUDGE