

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 3192 of 2014 (O&M)

Date of Decision: 22.01.2015.

Shamsher Singh PETITIONER

Versus

State of Punjab and another
..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vimal Kumar Gupta, Advocate
for the petitioner.
Mr. S.S. Chaudhary, DAG, Punjab.
Mr. Bhavyadeep Walia, Advocate
for respondent No.2.

LISA GILL, J.(Oral)

Petitioner has challenged judgment dated 17.12.2013 passed by Judicial Magistrate 1st Class, Patiala, whereby he has been convicted and sentenced to undergo rigorous imprisonment for a period of two years, besides pay a fine of ₹ 5,000/- and in default thereof, to undergo simple imprisonment for one month for the offence punishable under Section 498-A, IPC.

Petitioner's conviction has been upheld by Additional Sessions Judge, Fast Track Court, Patiala, vide the

impugned judgment dated 16.09.2014.

As per prosecution case, a complaint was moved by Rulda Singh who is the father of Raj Kaur. Raj Kaur is the petitioner's wife. She was married to the petitioner about 8 years ago. It was the second marriage of the petitioner and he demanded dowry. After two years of marriage he demanded a new scooter and money from Raj Kaur and her parents. The petitioner got transferred three shops and one plot in the name of Raj Kaur and subsequently he forcibly got signatures of Raj Kaur on a Power of Attorney in his favour and then transferred the property to some third person for consideration. He thereafter, started living with a girl at village Alipur and maintained illicit relations with her. In July, 2004, Shamsheer Singh had beaten Raj Kaur mercilessly and she was inflicted serious injuries. She was referred to PGI Chandigarh by a private doctor and an inquiry was conducted into the matter and on the basis of report an FIR No. 369 dated 01.07.2005 u/s 406, 498-A of IPC, Police Station Sadar, Patiala was registered against the petitioner.

A prime facie case for the offence punishable u/s 498-A IPC was found to be made out against the petitioner to which he pleaded not guilty and claimed trial. On appreciation of the evidence and the facts and

circumstances, the learned trial court convicted the petitioner for the offence punishable u/s 498-A IPC while the co-accused Joginder Singh son of Dalip Son was acquitted. Shamsheer Singh was sentenced to undergo rigorous imprisonment for the period of two years, besides pay a fine of ₹ 5,000/- and in default thereof, to undergo simple imprisonment for one month. Petitioner preferred an appeal against the judgment of conviction and sentence, which has also been dismissed by Additional Sessions Judge, Fast Track Court, Patiala, vide the impugned judgment dated 16.09.2014. The present revision petition has been filed by the petitioner assailing the judgment of conviction and order of sentence as well as the judgment of the Appellate Court upholding his conviction and sentence.

Learned counsel for the petitioner vehemently argued that marriage between the petitioner and Raj Kaur has not been proved on record. It is averred that Raj Kaur was married to one Gajjan Singh son of Nishan Singh and had also filed an application u/s 125 Cr.PC (Annexure P-1) for grant of maintenance pendente-lite. She had levelled similar allegations of demand of a colour T.V., scooter and ₹50,000/- qua Gajjan Singh also. Gajjan Singh also filed an application u/s 9 of the Hindu Marriage Act against Raj Kaur on 07.04.1997. Therefore, there is no question of any

marriage between the petitioner and Raj Kaur being solemnized on 30.09.1996. It is further submitted that there is no medical evidence on record to prove the allegations raised against the petitioner. There is one child born out of this wedlock.

Ld. Counsel urges that there is no proof of divorce between Gajjan Singh and Raj Kaur, therefore, conviction of the petitioner is illegal and liable to be set aside.

Learned counsel for the state and respondent No.2 Raj Kumar have pointed out that Ex.D10 is a criminal complaint, which was filed by the petitioner under sections 494, 495 and 420 IPC against respondent No.2 Raj Kaur. In the said complaint, it is clearly mentioned by the petitioner that a simple marriage was performed by him with Raj Kaur on 30.09.1996.

Reference was also made to Ex.DW3/C2 i.e. orders of this court reflecting Raj Kaur to be the wife of Shamsher Singh. Petitioner was granted bail subject to payment of interim maintenance to his wife respondent No.2 Raj Kaur. It is pointed out that application for interim maintenance under Section 125, Cr.P.C. filed by Raj Kaur had been withdrawn by her. Prosecution has proved its case beyond reasonable doubt against the petitioner and his conviction

and sentence are liable to be upheld.

I have heard learned counsel for the parties and gone through the record of the case.

It is apparent that the petitioner himself has admitted to solemnizing marriage with Raj Kaur on 30.09.1996. It does not lie in his mouth to say at this stage that no marriage was contracted with her or that the same is not a valid marriage and, therefore, he is not liable to be convicted under section 498-A IPC.

The petitioner has gone to the extent of raising wild allegations against the presiding officer of the trial court, reader of the court and other judicial officer as well as police officers of illicit relations with respondent No.2, due to which they have supported her. He has indulged in unabashed character assassination. There is no evidence worth the name to substantiate such serious allegations, which appear to have been leveled in an absolutely routine casual manner without any consideration of the gravity of such allegations. Such conduct appears to be act of desperation.

Specific allegations which have been raised against the petitioner were fully supported by the witnesses. PW3 Lachhman Singh, who though declared hostile, has also corroborated the prosecution version. He admits that he

went to the in-laws of Raj Kaur along with Panchayat. Though they tried to persuade the accused, he remained adamant in regard to the demand of dowry. Thus, he has duly proved the marriage as well as demand of dowry even though declared hostile. PW-9 Raj Kaur and her father PW-8 Rulda Singh have levelled specific allegations against the petitioner and have deposed that he started harassing Raj Kaur after two years of marriage for dowry and subjected her to cruelty.

This court in exercise of revisional jurisdiction is not to re-appreciate the evidence. No perversity emerges in the findings returned by the court below and neither has any material evidence been ignored which warrants interference by this court.

In this situation learned counsel for the petitioner prays that benefit of probation be extended to the petitioner or the sentence imposed upon him may be reduced. There is no other case pending against the petitioner. He has endured agony of trial since 2005.

Keeping in view the facts and circumstances of the case and the nature of the offence it is not considered just and expedient to the entire reduce the sentence imposed upon the petitioner or extend the benefit of probation to him.

Consequently, this revision petition is dismissed.

22.01.2015.

Anoop

(LISA GILL)

JUDGE