

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

**Crl. Revision No.1180 of 2011 (O&M)
Date of decision : 29.11.2016**

Bhagwan Dass

...Petitioner

versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashok Sharma Nabhewala, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

RITU BAHRI, J.

Challenge in this petition is to the judgment dated 16.05.2011 passed by the Additional Sessions Judge, Palwal, dismissing the appeal filed by the accused-petitioner against the judgment of conviction dated 12.08.2008 and order of sentence dated 13.08.2008 passed by the Judicial Magistrate, Ist Class, Palwal, whereby Bhagwan Dass-petitioner has been sentenced as under:-

<i>Section(s)</i>	<i>Sentence</i>
406 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-.
498-A	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-.

Brief facts of the case are that on 06.12.1996, Devender Kumar-complainant made a complaint before the Deputy Superintendent of Police, Hodal, alleging that marriage of his sister Yogita Gupta was solemnized with Bhagwan Dass (petitioner) on 12.11.1992 as per Hindu rites and rituals.

His father had spent sufficient amount in the marriage as per his capacity and gave gifts/dowry articles in the shape of cash, fridge, TV, Sofa set, cooler, sewing machine, ceiling fan, utensils and gold articles etc. However, soon after the marriage, in-laws of his sister started harassing and humiliating her on the pretext of bringing insufficient dowry. They made a demand of motorcycle (Yamaha) and cash of Rs.17,500/-. On showing her inability to do so, Bhagwan Dass (husband), Radha Ballab Premi (father-in-law), Sharda Rani (mother-in-law), Sunita (sister-in-law), Neelam (*jethani*), Vijay Kumar (*jeth*) and Umesh Chand (*devar*) gave beatings and turned her out of the matrimonial house. Later on, the matter was compromised and she was taken back to her matrimonial house. But, despite that, their behaviour did not change and they again thrown her out of matrimonial home. In his background, the FIR was registered.

On completion of investigation, challan was presented before the Court. Charges under Sections 498-A and 406 IPC was framed against the petitioner and his co-accused vide order dated 16.06.2002, to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Constable Daya Nand (PW-1), Kirori Lal (PW-2), Yogita (PW-3), Devender-complainant (PW-4), Umesh Bala (PW-5), Asha Rani (PW-6), Dhani Ram (PW-7) and Inspector Ravi Dutt (PW-8). After conclusion of prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded, whereby entire incriminating evidence was put to them. However, they denied the same and pleaded innocence. In defence, the accused examined Hari Ram (DW-1) and Roop Ram (DW-2).

Trial Court, after going through the entire evidence led by the

prosecution, convicted and sentenced the accused-petitioner in the aforesaid terms. However, his co-accused namely Sharda Devi was released on probation for a period of one year. Remaining accused namely, Sunita, Umesh Chand, Vijay Kumar and Neelam were acquitted of the charges framed against them. Appeal filed by the petitioner against the said judgment was dismissed by the Additional Sessions Judge, Palwal, vide judgment dated 16.05.2011.

Learned counsel for the petitioner, at the outset, does not challenge the conviction on merits and restricts his prayer to quantum of sentence. A prayer has been made to release the petitioner on probation.

After going through the impugned judgments, no illegality, much less irregularity, has been found therein warranting interference by this Court.

Accordingly, the present petition is dismissed. However, a lenient view can be taken on the quantum of sentence. The sentence of the petitioner was suspended by this Court vide order dated 14.07.2011. As per custody certificate dated 15.09.2016, he has undergone 02 months and 02 days in custody. In the present case, FIR was registered on 05.01.1997 and the petitioner has been facing the agony of a protracted criminal trial for the last more than 19 years. Moreover, the petitioner has not misused the concession of bail. In these circumstances, the benefit of probation can be extended to the petitioner as per the provisions contained in Section 360 Cr.P.C. Hence, the sentence awarded to the petitioner-Bhagwan Das is modified and he is ordered to be released on probation for a period of one year on his furnishing probation bonds in the sum of Rs.10,000/- with one surety in the like amount before the trial Court with a condition that he will

maintain peace and be of good behaviour during the period of probation.

The petitioner is further directed to deposit a sum of Rs.35,000/- towards compensation, which shall be released in favour of his wife-Yogita Gupta.

With the above modification/direction, the present petition stands disposed of.

(RITU BAHRI)
JUDGE

29.11.2016
ajp