

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

Crl. Revision 2107 of 2012
Date of Decision : May 13, 2016

Ram Parsad and others

.....Petitioners

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Ms. Tarunpreet Kaur, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana

T.P.S. MANN, J. (Oral)

The petitioners alongwith Brij Mohan were tried for committing the offences punishable under Sections 498-A, 323, 406 and 506 read with Section 34 IPC. Vide judgment and order dated 19/21.5.2011, learned Judicial Magistrate 1st Class, Faridabad acquitted them of the charges under Sections 406 and 506 IPC. They were, however, convicted under Section 498-A IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- each and in default of payment of fine, to further undergo simple imprisonment for a period of one month. They were also convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for six months each. Both the sentences were ordered to run concurrently. The period already spent by them was ordered to be set off against the imprisonment awarded to them. The fine imposed was deposited by them.

Aggrieved of their conviction and sentences, the petitioners and their co-convict Brij Mohan filed an appeal. Vide judgment dated 4.7.2012, learned Additional Sessions Judge, Faridabad found no merit in the appeal and, accordingly, dismissed the same. Still not satisfied, the petitioners preferred the present revision in which they are on bail. At the same time, Brij Mohan did not challenge his conviction and sentence by filing the revision. Instead, he opted to stay behind the bars and has served the sentence imposed upon him.

The case of the prosecution has been noticed by the learned trial Court in para 2 of its judgment which reads as under:-

“Briefly stated, the case of the prosecution is that on 25.4.2008, Raj Bala came to the Police Station and got recorded her complaint stating therein that she was married with Brij Mohan son of Sh. Sukh Ram on 7.7.2006 according to Hindu Rites and customs. Her father gave dowry beyond his capacity in the marriage. However, after about one and half months of marriage, her husband Brij Mohan, mother-in-law Jamuna, Jeth Rajpal, Jeth Khem Chand, Jeth Ram Parshad and father-in-law Sukh Ram etc., started harassing her for bringing less dowry. Due to the harassment, about 20 panchayats were organized and in the end on 20.12.2007 with the interception (sic) of Woman Cell and in the presence of other people, settlement took place and she was sent to her in-laws by her

father. However, after 4 days they again started harassing her. On 23.4.2008, upon the instigation of all accused, her husband attempted to kill her. Finding an opportunity she telephoned her father and narrated the incident but her husband came in between and snatched the phone and gave it to his mother. Thereafter, he started beating her with legs and fists. When she had telephoned her father he was in Delhi and he sent his 'Phupha' Sh. Charan Singh and his son Nawal Singh. His father asked Charan Singh and his son Nawal Singh to enquire about the matter whereupon they come to her house. When Nawal Singh and Charan Singh came there, the accused had taken her on the roof of the house and attempted to kill her. Her brother Nawal Singh intervened but he was also beaten up while her 'Phupha' was injured with an iron rod and taken to hospital for treatment. On 24.4.2008, her father alongwith other villagers and the city Police came and rescued her from the clutches of accused."

After hearing learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that the petitioners have been rightly convicted for the offences under Sections 498-A and 323 IPC. Complainant-Raj Bala had levelled serious allegations of demand of Rs. 80,000/- and a car. Besides, she used to be beaten by the accused, who even tried to strangulate her with her *chuni*. In this regard, reference may be made to the testimonies of complainant-Raj

Bala, who appeared as PW2, Charan Singh PW7 and Nawal Singh PW8. The ocular account is duly supported by medical evidence by way of testimony of PW4 Dr. Vishal Saxena. Merely because Brij Mohan alongwith complainant Raj Bala used to live separately from the petitioners is no ground to acquit them as they were also privy to the crime by demanding dowry and subjecting complainant Raj Bala with cruelty besides giving her beatings.

In view of the above, no case is made out for upsetting the conviction of the petitioners for the offences under Sections 498-A and 323 IPC.

As regards the quantum of sentence, it may be noticed that the petitioners are facing the agony of criminal prosecution for the last more than eight years. The Court has been informed that the matrimonial ties between Brij Mohan and complainant Raj Bala have already come to an end by way of decree of divorce obtained by Brij Mohan. Said Brij Mohan on the one hand and complainant Raj Bala, on the other, have got remarried and leading their independent lives. The petitioners are on bail since 13.8.2012. As per the custody certificates already brought on record by the learned State counsel, Sukh Ram and Ram Parsad have already undergone a period of two months and twelve days, Raj Pal has undergone one month and seventeen days whereas Jamuna has undergone one month and fifteen days.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioners behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice would be suitably met if their sentences of imprisonment are reduced on both the counts to the one already undergone by them. At the same time, the fine of Rs. 500/- imposed upon each of the petitioners can be enhanced so as to suitably compensate complainant Raj Bala.

Resultantly, the conviction of the petitioners under Sections 498-A and 323 IPC is upheld. Their substantive sentences of imprisonment are reduced on both the counts to the one already undergone by them. The fine of Rs. 500/- imposed upon each of the petitioners under Section 498-A IPC is enhanced to Rs. 10,000/- which shall be deposited by them with the trial Court within three months failing which they shall undergo rigorous imprisonment for three months. The enhanced amount of fine, if deposited by the petitioners, be disbursed in favour of complainant Raj Bala, as compensation.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

May 13, 2016
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(T.P.S. MANN)
JUDGE