

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4958 of 2015 (O&M)
Date of Decision: May 17, 2016

Amarbir Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vipin Mahajan, Advocate
for the petitioner.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Ajay Pal Singh Rehan, Advocate
for the complainant.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Amarbir Singh against respondent State of Punjab under Section 401 Cr.P.C., challenging the impugned judgment of conviction and order of sentence dated 15.10.2013 passed by learned Judicial Magistrate Ist Class, Batala, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹2,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 498-A IPC and also challenging the judgment dated 26.11.2015 passed by learned Addl. Sessions Judge (A), Gurdaspur, vide which appeal filed

by petitioner was dismissed.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Notice of motion was issued only qua quantum of sentence.

Learned State counsel as well as learned counsel for the complainant appeared and contested the revision petition.

From the record, I find that challan was presented against the petitioner and co-accused Gurmit Kaur, Paramjit Kaur and Balkar Singh, in case FIR No.4 dated 25.01.2007 under Sections 498-A IPC. However, proceedings qua Paramjit Kaur were quashed and Gurmit Kaur and Balkar Singh were acquitted of the charges. The brief facts of the case as noted down in the judgment passed by learned JMIC, Gurdaspur, are as under:-

"In brief, the case of the prosecution as emerges from the final report under Section 173 Cr.P.C. and documents appended herewith and present case was registered on the application moved by Amritpal Kaur d/o Late Joginder Singh resident of Kotli Surat Malhi District Gurdaspur to the SSP, Batala against the accused wherein it is stated that he is resident of the above said address. She was married with Amarbir Singh on 10.03.2003. Sufficient dowry was given at the time of marriage by the parents of the complainant. After the marriage when the complainant's parents came to the village of her husband, 15 tola of gold, one motor cycle make Passion and clothes for relatives were given as dowry. From very first date, father-in-law Balkar Singh, mother-in-law Gurmit Kaur, sister-in-law Paramjit Kaur and husband started teasing the complainant on the pretext that these days motorcycle is given only by lowly placed persons and that all the friends of Amarbir Singh got car as dowry in their marriages. The father of the complainant had spent lacs of rupees in this marriage and he died of cancer during April

2004. Complainant was brought to cremation ground but was taken back from there only by her husband to her in-law place. The motorcycle given in dowry is allegedly sold. The complainant also complains that she was got aborted after her pregnancy. In April 2005, a son, namely Preet Singh, was born to the complainant, who at the time of lodging the FIR, was one and half year old. The complainant was not permitted to take her child along, whenever she went to meet her parents. The relatives of the complainant also tried to intervene and explain the things to the in-laws but they always avoided them. Some articles at the time of birth of the child were given including clothes for newly born, though the in-laws were expecting a car. Since the car was not given to them they started troubling the complainant. Even on the death of uncle of the complainant, husband Amarbir Singh accompanied her and while going back, took away their son from the Bhog ceremony itself. The complainant had written letter in this regard to her brother. Her husband had further told her brother to take the complainant away and he would prefer to keep a servant instead. Having so spoken, her husband had given slaps and asked the complainant go to out of this house. When the brother of the complainant came to meet her, he was abused and demand of dowry was raised besides stipulating that otherwise the complainant be taken away. Ultimately, complainant had been turned out from the house after taking one and half year old son. On the said complaint, enquiry was conducted and a case under Section 498-A was registered. ”

Learned JMIC, Gurdaspur, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Gurdaspur, vide judgment dated 26.11.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner argued that the petitioner is suffering from criminal proceedings for the last more than nine years. He further argued that the petitioner has

undergone actual imprisonment of 6 months and has earned remission of 20 days and the total period undergone by him is 6 months and 20 days. He also argued that the petitioner is a poor person and has suffered a lot in matrimonial dispute. Learned counsel for the petitioner further contended that in this case marriage had taken place in the year 2003 and FIR was registered after four years i.e. in the year 2007 and no serious allegation regarding maltreatment has been alleged by the complainant.

Keeping in view the facts and circumstances of the present case and in view of the fact that the petitioner has suffered a lot from long protracted criminal proceedings since 2007 and has already undergone imprisonment of 6 months and 20 days including remission and in view the fact that the petitioner is poor person and bread earner of the family, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and default thereof shall remain the same.

Resultantly, the present revision petition stands partly allowed.

Petitioner Amarbir Singh, who is in custody, be released forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

May 17, 2016
Vgulati

(INDERJIT SINGH)
JUDGE