

CRM -M-13563 of 2016(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

CRM -M-13563 of 2016(O&M)

Date of Decision: 6.4.2017

Binder

---Petitioner

versus

State of Punjab and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Satbir Rathore, Advocate
for the petitioner**

Mr. Ankur Jain, AAG, Punjab

Rekha Mittal, J.

By invoking Section 482 read with Section 427 of the Code of Criminal Procedure, the petitioner prays that substantive sentence awarded for two offences under Section 304-B and 498-A of the Indian Penal Code (in short "IPC") in the trial pertaining to FIR No. 51 dated 18.12.1992 registered at Police Station Lalru, District Patiala (Now

SAS Nagar Mohali) may be permitted to run concurrently.

Perusal of the averments raised in the petition would evident that FIR No. 51 dated 18.12.1992 under Sections 304-B and 498-A IPC was registered against the petitioner and his family members with regard to death of his wife. The petitioner and others, were convicted and sentenced by the Additional Sessions Judge, Patiala vide judgment dated 7.4.1997. The conviction and sentence of the accused became subject matter of appeal filed before this Court. This court, vide judgment dated 26.4.2010 affirmed the conviction and sentence of the petitioner whereas the other accused were ordered to be acquitted of the offence charged against them.

The petitioner was awarded separate sentences for offence under Section 304-B and 498-A IPC without any order that both the sentences will run concurrently. As has been noticed hereinbefore, the appeal preferred by the petitioner did not find favour with this Court and as a result, judgment passed by the trial court in regard to his conviction and sentence was ordered to be affirmed. Once judgment of

the trial court has been affirmed by this Court in exercise of its appellate jurisdiction, any modification in the judgment passed by the appellate court can not be made in exercise of jurisdiction under Section 482 Cr.P.C. though the provisions of Section 427 Cr.P.C. are not attracted in the present scenario.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated hereinbefore will cause prejudice to rights of the petitioner to avail appropriate remedy in accordance with law.

(Rekha Mittal)
Judge

6.4.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No