

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM No.8748 of 2017 and
CRR No.2967 of 2012 (O&M)
Date of decision:19.4.2017

Surinder Saini	... Petitioner
versus	
State UT, Chandigarh	... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Manish Joshi, Advocate,
for the petitioner
Mr.Rajiv Sharma, Advocate,
for UT, Chandigarh
...

AMOL RATTAN SINGH, J. (Oral)

1. By this revision petition, the petitioner has challenged his conviction and sentence by the trial Court, as has been upheld by the learned Additional Sessions Judge, Chandigarh, vide her judgment and order dated 28.8.2012.

2. The petitioner and his 4 co-accused were charged with the commission of offences punishable under Sections 498-A and 494 IPC, on the complaint of the present petitioners' wife, Smt.Rama Saini.

The details of the complaint are not being gone into in view of the fact that the matter has been settled between the parties and even the petition is not sought to be argued on merits. Suffice to say, that obvious allegations against the petitioner and his co-accused were that the complainant had been ill treated and harassed by them.

The charges having been framed and evidence having been led on both sides, eventually the learned Judicial Magistrate Ist Class,

Chandigarh, vide his judgment dated 23.3.2009, wholly acquitted two of the co-accused of the petitioner, namely, Harbhajan Singh and Chand Rani, of all charges, but sentenced the petitioner and his father, Banarsi Dass, for the commission of an offence punishable under Section 498-A IPC, whereas they were also acquitted of the charge framed against them under Section 494 IPC.

The mother of the petitioner, Raj Rani, is stated to have died during the pendency of the trial.

3. Upon appeal by the petitioner and his father, the learned Additional Sessions Judge, Chandigarh, vide her judgment dated 28.8.2012, acquitted the petitioners' father, Shri Banarsi Dass, but upheld the conviction and sentence of the petitioner, the petitioner having been sentenced by the learned trial Court to undergo rigorous imprisonment for a period of two years, with a further direction to pay a fine of Rs.5,000/-, in default of which he was to undergo further rigorous imprisonment for two months.

4. This revision petition having been filed, after notice was issued on 27.9.2012, vide an order dated 17.10.2012 the sentence of the petitioner was ordered to be suspended during the pendency of the petition.

Thus, he remained in custody from 28.8.2012 till the time that he was released on bail upon his furnishing adequate bail and surety bonds, i.e. for a period of about 2-1/2 months.

5. The present application, i.e. CRM No.8748 of 2017, has been filed seeking that the petition itself be disposed of by taking cognizance of the compromise/settlement reached between the petitioner and the

complainant, i.e. his wife Smt.Rama Saini.

It is further submitted that, in fact, a petition under Section 13-B of the Hindu Marriage Act, 1955, has been filed before the competent Court, seeking dissolution of the marriage between the petitioner and Smt.Rama Saini, by way of mutual consent. A copy of the petition filed has been annexed with the application as Annexure P-2.

On notice in the application having been issued vide order dated 21.3.2017, the complainant, Rama Saini, had appeared in person before this Court and had not denied the factum of the compromise but since learned State counsel was not present, the matter was adjourned till today.

Today, the petitioner (identified by his counsel) and Smt.Rama Saini, are both present in Court, Smt.Rama Saini having already given proof of her identity on the previous date of hearing. Learned State counsel is also present.

She has made a statement in Court today to the effect that the matter has been fully compromised between her and the petitioner and that she has no objection if the petitioners' sentence is reduced to the period already undergone.

Learned counsel for the petitioner also submits that the petitioner does not wish to pursue the petition on merits and that he would be satisfied if the petition is disposed of by reducing his sentence to the period already undergone by him.

6. Considering the fact that the matter has been amicably compromised between the parties and the petition is no longer sought to be

argued on merits, with the punishment provided for the commission of an offence punishable under Section 498-A IPC being upto three years rigorous imprisonment, alongwith imposition of a fine, the application is allowed and the petition itself is disposed of by upholding the conviction of the petitioner for the commission of an offence punishable under Section 498-A IPC, but by reducing the sentence imposed upon him to the period of imprisonment already undergone by him, provided he pays the fine of Rs.5,000/- imposed upon him vide the judgment and order of the learned trial Court, dated 23.3.2009.

Learned counsel for the petitioner submits that the fine has already been paid.

7. The aforesaid contention is accepted subject to verification by the learned Public Prosecutor. However, if it is found that the petitioner has not paid the fine, the same shall be realized from him within 15 days from the date of receipt of a certified copy of this order, failing which, he shall be taken into custody to undergo imprisonment on account of default of payment of fine.

19.4.2017
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No