

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

CRR No.4185 of 2016 (O&M)
Date of decision: 18.03.2017

Tek Chand @ Babli

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rahul Garg, Advocate
for the petitioner.

Mr. Vikas Malik, DAG, Haryana.

REKHA MITTAL J.

Tek Chand @ Babli son of Rohtash Singh was tried for commission of offence punishable under Sections 406, 498-A, 323 and 342, 506 read with Section 34 of the Indian Penal Code (in short 'IPC') in FIR No.52 dated 25.01.2009 registered at Police Station Kotwali, Faridabad.

The learned trial Court held the petitioner guilty for committing offence punishable under Sections 406, 498-A, 323 and 342 IPC. He was sentenced to rigorous imprisonment for a period of 02 years and fine of Rs.200/- under Section 498-A IPC, simple imprisonment for 03 months and fine of Rs.500/- each under Sections 323, 342 and 406 IPC with a default stipulation for failure to pay fine for each of the offences.

Aggrieved against the same, the petitioner filed an appeal and the same was allowed to the extent of acquitting the petitioner for offence punishable under Section 406 IPC. On the other hand, appeal

preferred by the State of Haryana against acquittal of Rohtash and Daryai Devi, co-accused of the petitioner was ordered to be dismissed.

Feeling aggrieved against the judgment passed by the Court of appeal, the present petition has been preferred to assail the conviction and sentence of the petitioner for offence under Sections 498-A, 323 and 342 IPC recorded by the trial Court and duly affirmed in appeal.

Briefly stated, case of the prosecution is that the complainant was married with the petitioner on 28.11.2004 and her father gave sufficient dowry and spent an amount of Rs.4,00,000/-. Since inception of the marriage, the petitioner, his parents and 02 brothers of the husband raised illegal demands, caused harassment to the complainant and gave beatings.

The prosecution examined ASI Hukum Chand PW1, ASI Kanhiya Lal PW2, Deep Chand, father of the complainant PW3, Constable Sachin Kumar PW4, Sunita, complainant PW5 and Dr. D.S. Rathi CW1 (examined as a Court witness).

Counsel for the petitioner has given up challenge to the judgments passed by the Courts below on merits. This Court cannot re-appreciate or re-evaluate evidence of the prosecution in view of limited revisional jurisdiction. However, counsel for the petitioner has failed to point out any patent illegality or incurable irregularity. This apart, on perusal of the records, there is nothing material to formulate any opinion different from the opinion expressed by the Courts below.

Counsel for the petitioner has submitted that the marriage was performed in the year 2004 and the criminal proceedings got

initiated in January, 2009. The petitioner is partially disabled as a rod has been inserted in his right leg. He has already suffered custody for a period of 4½ months. It is prayed that substantive sentence awarded to the petitioner may be reduced to the period already undergone. In support of his contention, he has relied upon judgments of this Court ***“Kewal Krishan vs State of Punjab”***, 2008(2) RCR (Criminal) 805, ***“Sukhwinder Singh vs State of Punjab”***, 2007(3) Law Herald 1911, ***“S.P.S. Rathore vs C.B.I.”***, 2010(3) RCR (Criminal) 325. Further reference has been made to judgments of the Patna High Court ***“Mohd. Yusuf vs State of Bihar”***, 2002(1) EcrC 436 and ***“Vijay Kumar Jha vs State of Bihar”***, 2007(2) EcrC 167.

Counsel for the State has contested plea for reduction in sentence on the premise that in view of misconduct of the petitioner towards his wife since performance of marriage, rightly condemned by the Courts below, he does not deserve any leniency.

The petitioner has faced rigmarole of the criminal proceedings for the past about 08 years. Counsel for the respondent – State has not disputed that the petitioner has a rod inserted in his right leg. He is in custody since decision of his appeal by the Appellate Court.

Taking into consideration a cumulative view of the facts and circumstances discussed hereinbefore, I am of the considered opinion that ends of justice would be met if substantive sentence awarded to the petitioner for offence punishable under Section 498-A is reduced to rigorous imprisonment for a period of 11 months.

With the aforesaid modification, the petition stands

disposed of.

(REKHA MITTAL)
JUDGE

18.03.2017
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No