

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

**CRR No.204 of 2017 (O&M)
Decided on: 25.05.2017**

Surinderpal SinghPetitioner
Versus
State of Punjab and anotherRespondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Gurcharan Dass, Advocate for the petitioner.

Mr. Ankur Jain, AAG, Punjab.

REKHA MITTAL, J.

Mr. Tejinder Singh Salana, Advocate has caused appearance on behalf of respondent No.2.

The present petition directs challenge against consistent findings recorded by the Courts below whereby the petitioner has been convicted and sentenced for commission of offence punishable under Section 498-A of the Indian Penal Code (in short 'IPC'), sentenced to rigorous imprisonment for a period of 03 years with fine of Rs.2,000/- and further imprisonment of 03 months in case of default of payment of fine.

Notice of motion was issued limited to quantum of sentence.

Counsel for the petitioner has submitted that Sukwinder Kaur – respondent filed a private complaint in July, 2002 against the petitioner, Dalip Kaur his mother and Narinderpal Singh, his brother under Sections 406 and 498-A IPC. The trial Court vide judgment dated 12.08.2013 held the petitioner guilty of committing offence punishable

under Section 498-A IPC only whereas all the accused were acquitted of the offence punishable under Section 406 IPC and co-accused of the petitioner were also acquitted of offence under Section 498-A IPC. It is further submitted that the petitioner was awarded the maximum prescribed sentence of 03 years by the trial Court that came to be affirmed by the Additional Sessions Judge, Fatehgarh Sahib on 20.10.2016. The petitioner has faced agony of criminal proceedings for the past about 13/14 years. He has suffered custody for a period of more than 07 months and sentence including remission for more than 08 months. Out of wedlock of the petitioner and Sukhwinder Kaur, there were two children and the elder child, a son was residing with the petitioner. Few days back, son of the petitioner aged about 23 years passed away and the petitioner is under tremendous tension due to untimely death of his son and needs to be with his family in order to share grief in the company of his other family members. It is prayed that substantive sentence awarded to the petitioner may be reduced to the period already undergone.

Counsel representing State of Punjab has opposed the prayer for reduction in sentence. However, counsel for the complainant would state that a sympathetic view may be take in the matter in the light of fact that a grown up son of the petitioner and complainant has died.

I have heard counsel for the parties and perused the paperbook particularly the judgments passed by the Courts below.

Marriage of the petitioner with Sukhwinder Kaur was performed on 29.11.1993. Sukhwinder Kaur – respondent filed a private complaint under Sections 406 and 498-A IPC on 17.07.2002. After

conducting preliminary enquiry, accused were ordered to be summoned vide order dated 22.10.2003. It is not clear on record as to when the accused caused appearance before the trial Court in pursuance of summoning order passed in 2003. However, it remains a fact that proceedings pending before the trial Court culminated in a judgment of conviction against the petitioner in August, 2013. As has been noticed hereinbefore, the appeal preferred by the petitioner did not find favour with the Additional Sessions Judge, Fatehgarh Sahib whereby conviction and sentence of the petitioner for offence under Section 498-A IPC were affirmed. Indisputably, the petitioner has suffered custody for a period of more than 07 months and sentence including remission for a period of 08 months. Unfortunatly, the petitioner lost his son aged about 23 years who was residing with the petitioner after the wife left the matrimonial home. Counsel for the complainant has expressed his sympathy with the petitioner due to unfortunate demise of son of the parties. Taking a cumulative view of the facts and circumstances that the petitioner has suffered pangs of criminal trial for the past more than 10 years coupled with the custody period already undergone along with the fact that loss of a young son has caused a big set-back to the petitioner, interest of justice would be served if substantive sentence awarded to the petitioner is reduced to the period already undergone.

For the foregoing reasons, the petition is disposed of with modification in the aforesaid terms.

25.05.2017
yakub

(REKHA MITTAL)
JUDGE

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