

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 1795 of 2010 (O&M)
Date of decision : October 26, 2018

Dori Lal and others

....Petitioners

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Narinder Singh, Advocate for the petitioners
Mr. Munish Sharma, AAG, Haryana/respondent no. 1
Mr. Shiva Khurmi, Advocate, for respondent no. 2

Fateh Deep Singh, J. (Oral)

This is a revision by the convict-revisionist Dori Lal, Yad Ram and Phoolwati against judgment order dated 7.6.2010 of the court of learned Additional Sessions Judge, Nuh whereby through the impugned findings, the court below had dismissed the appeal of the appellants and thereby upholding the judgment of learned Sub Divisional Judicial Magistrate, Ferozepur Jhirka Mobile Court Punhana dated 13.9.2008.

Heard Mr. Narinder Singh, Advocate for the petitioners,
Mr. Munish Sharma, AAG, Haryana/respondent no. 1 and Mr. Shiva

Khurmi, Advocate, for respondent no. 2 and perused the records.

Initially a criminal complaint under Sections 498A, 406, 506 IPC was filed by Sunita wife of Dori Lal against six accused namely Dori Lal, Yad Ram, Phoolwati, Om Parkash, Prem Sukhi and Maggo. In her allegations the complainant alleged that the complainant was married to Dori Lal whereas her sister was married to Mohan Shyam another member of the family of the accused side. At the time of marriage, the father of the complainant gave sufficient dowry articles commensurate with their economic status. However, after the marriage the accused side started demanding more dowry including cash. On account of this matrimonial disaccord, Panchayats were convened. The matter could not be ironed out and thereafter the complaint was filed.

Upon recording of preliminary evidence, the accused were summoned vide orders dated 22.7.2004. After necessary steps charges against the accused were framed on 11.1.2008 to which they pleaded not guilty.

In her evidence, the complainant side examined PW1 (also referred to as CW1) Ved Ram, Member of one of the Panchayats followed by the testimony of complainant herself as PW2. PW3 Roop Chand brought about the allegations of harassment on account of demand of dowry followed by another Member Panchayat PW4 Ishak to support the allegations of demand

of dowry harassmt and cruelty. PW5-Prem Chand similarly as a Member of Panchayat supported the case of the complainant.

The accused in their stand under Section 313 Cr.P.C. after closure of the complainant's/prosecution evidence denied the allegations and in their defence examined Nand Ram Headmaster to prove school leaving certificates of Premwati as Ex. D1 and Ex. D2, High School Certificate of Mango Devi as Ex. D3 and Ex. D4, High School Certificate of Om Parkash Sharma as Ex. D5 and Ex. D6 and tendered Saha Patra as Ex. D7 and ration card of Dori Lal as Ex. D8 and thereafter closed the evidence. Consequent upon hearing of the arguments through impugned findings, the trial court acquitted accused Prem Sukhi, Mango and Om Parkash giving them benefit of doubt whereas accused Dori Lal, Yad Ram and Phoolbati the present petitioners were held guilty for commission of offences under Sections 498-A, 406, 506 IPC and convicted them as follows:-

<i>Under Section 498A IPC</i>	<i>Rigorous imprisonment for a period of one year.</i>
<i>Under Section 406 IPC</i>	<i>Rigorous imprisonment for a period of one year.</i>
<i>Under Section 506 IPC</i>	<i>Rigorous imprisonment for a period of six months</i>

Besides the above sentence, the accused were also burdened to pay Rs 5000/- each towards compensation to the victim.

The same was upheld in the first appeal of the appellants

now revisionists.

Appreciating the submissions of the two sides, the learned counsel for the revisionists Mr. Narinder Singh at the very on set has sought to put forth that the parties are fighting over the matter which is more than 14 years old and have suffered enormously on account of this prolonged litigation over a period of time and has sought to pray that lenient view in the matter be taken and prayed for grant of concession of probation. Not much resistance has been sought to be offered by the learned State counsel Mr. Munish Sharma assisted by Mr. Shiva Khurmi, counsel for the complainant side but has sought to press that since the complainant too has suffered enormously by this dispute she should be adequately compensated.

Upon the respective arguments and stand of two sides having regard to the fact that by virtue of this dispute which is a purely arising out of matrimonial issues, the parties must have suffered in terms of economic loss besides the psychological loss which has its own repercussions on the future lives of the petitioners, the complainant as well as their respective families. The court below has failed to consider the case of the petitioners having regard to the effect that the accused have been sentenced to undergo maximum rigorous imprisonment for one year and therefore, being a case of first offenders admittedly with no criminal background and therefore,

being first offenders their case needs to be adequately considered by virtue of provisions of Section 360 Cr.P.C. for grant of probation. The courts below did not gave much serious thought to this provision which is purely with a definite motive to ensure that first time offenders who by virtue of circumstances are compelled into a crime hauled up for commission of offences do not mix with hardened criminals and join and take a path of revenge and crime. The petitioners have become quite old during this period and must have realised their folly. This in line with the criminal theory of Reformation necessitates that the petitioners be given an opportunity of reform themselves and joined the mainstream as sending them to custody may make them hardened criminals. Thus, in view of this special circumstances upholding the consecutive findings of the courts below, this Court deems it imperative to give them benefit of probation. Accordingly, the petitioners are ordered to be released on probation of good conduct on furnishing probation bonds to the satisfaction of learned Chief Judicial Magistrate/trial court in the sum of Rs 10,000/- each with one similar surety undertaking to appear and receive sentence whenever called upon during the period of one year and in the meantime to keep peace and be of good behaviour. If probation bonds are not furnished within one month, the instant revision petition shall be deemed to have been dismissed.

However to ensure that the complainant side too is

adequately compensated, it would meet the ends of justice if each of the petitioners is ordered to pay a sum of Rs 25,000/- totalling to Rs 75,000/- which shall go to the victim Sunita the then wife of Dori Lal and will be deposited within one month on receipt of copy of judgment in the court of learned CJM/trial court and which will be a pre-condition for availing this concession of probation.

With modification in sentence as aforesaid, the revision petition stands disposed off accordingly.

October 26, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No