

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

CRR No.2412 of 2011 (O&M)
Date of decision: 1st December, 2018

Gurdeep Singh

... Petitioner

Versus

Amarjeet Kaur @ Kulwinder Kaur & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.S. Jammu, Advocate for the petitioner.

Brother of respondent No.1 in person.

Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondent No.2/State.

FATEH DEEP SINGH, J. (ORAL)

This criminal revision by unsuccessful appellant revisionist Gurdeep Singh against respondents Amarjeet Kaur alias Kulwinder Kaur and State of Haryana has arisen out of the judgment and order dated 28.09.2011 passed in criminal appeal No.234 of 2010 titled 'Gurdeep Singh and another vs. Amarjeet Kaur alias Kulwinder Kaur and another'.

Heard Mr. P.S. Jammu, Advocate for the petitioner; Mr. Baljinder Singh Virk, Dy. Advocate General, Haryana for respondent No.2/State and perused the records of the case.

As is there and is well elicited from the records as well as the arguments of the two sides, Amarjeet Kaur alias Kulwinder Kaur wife of accused petitioner Gurdeep Singh filed a complaint under Sections 498A, 406, 307, 326, 323, 504, 505, 506 IPC and the Court of learned Judicial

Magistrate 1st Class, Dabwali, through judgment dated 12.01.2010 convicted Gurdeep Singh revisionist besides his co-accused who are not before this Court, namely Pritam Singh and Harpal Kaur, under Section 498A IPC and sentenced him to undergo rigorous imprisonment for a period of nine months and to pay a fine of Rs.500/- and in default of payment of fine to further undergo rigorous imprisonment for fifteen days. The same was subject matter of challenge in criminal appeal detailed above and through impugned judgment dated 28.09.2011 the Court of learned Sessions Judge, Sirsa partly accepted the appeal bearing No.234 of 2010 of Gurdeep Singh and another by modifying the order.

The allegations levelled by the complainant Amarjeet Kaur alias Kulwinder Kaur wife of the present revisionist are that their marriage was solemnized on 11.02.1993 and no issue could be born out of the wedlock. It is alleged that at the marriage, the family of the complainant had given Rs.50,000/- in cash besides dowry articles which have been duly enumerated. However, it is alleged that the accused used to taunt her for insufficiency of dowry and also physically abused her when her family could not afford to give them a car and in spite of repeated interventions by the respectables and holding of panchayat, the matter could not be sorted out and it is consequent thereto the present complaint was filed, in which the accused were summoned under Sections 498A, 406, 504, 506 read with Section 34 IPC and after necessary formalities, charges under Sections 498A, 406, 506 read with

Section 34 IPC were framed against the accused to which they pleaded not guilty.

In the evidence, the complainant Amarjeet Kaur alias Kulwinder Kaur herself appeared as PW-1 and examined PW-2 Bhanwar Lal, PW-3 Angrej Singh and PW-4 Mahender Singh, and thereafter, closed the evidence. The accused in their statements under Section 313 Cr.P.C. denied the allegations and in their defence examined DW-1 Khem Raj Singh and closed the same. That is how the present conviction has come about.

At the very onset, the learned counsel for the revisionist Mr.P.S. Jammu, Advocate has argued that the petitioner husband had suffered the travails for more than seventeen years after the complaint was filed in 2001 and had been sentenced only under Section 498A IPC to undergo rigorous imprisonment for nine months. The only prayer that has come about from the side of the petitioner is non-considering of his prayer for his release on probation.

Though on behalf of the respondent/State Mr. Baljinder Singh Virk, Deputy Advocate General, Haryana assisted by the brother of complainant/respondent No.1 in person, a stiff opposition is sought to be made to this prayer on the grounds that the complainant too has suffered enormously by this callous attitude and misconduct by the accused.

Appreciating the submissions, it is a pure matrimonial dispute which has taken seventeen years out of the valuable lives of the

couple. The courts below had convicted the petitioner to maximum rigorous imprisonment for nine months, out of which, as is there in the stand of the State, petitioner Gurdeep Singh has undergone incarceration for almost one month; besides the fact that during this period he must have been under tremendous physical and mental pressure and this torture of a protracted litigation have lost a long period of 17 years, is certainly an extenuating circumstance for consideration of a sympathetic view into the matter. The provisions of Section 360 Cr.P.C. have been made purely for a purpose, to curb the first time offender, which the petitioner is, from becoming hardened criminals and if sent to jail would certainly get an opportunity to mix with the hardened criminals wandering away from the main course of life and thus, another societal problem would come about. Commensurate with the theory of Reformation, it would sub-serve the ends of justice if the petitioner, keeping in view his long journey through this legal maze, is given concession of probation, as the offence is not of heinous nature, in terms of Section 4 of the Probation of Offenders Act, 1958 for a period of one year on his entering into a bond in the sum of ₹10,000/- with one surety of the like amount to the satisfaction of the trial Court undertaking therein that he shall keep peace and maintain good behaviour and shall appear and receive sentence as and when called upon to do so during the said period.

However, to assuage the feelings of wrong-done to the complainant, who too has suffered by this, it would sub-serve the ends of justice if she is awarded compensation amounting to Rs.20,000/- to be paid by the petitioner and which compensation shall be pre-condition which shall be given to the complainant at the time of tendering of probation bonds.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

December 1, 2018

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No