

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

**CRR-12-2018 (O&M)
Date of decision: 27.04.2018**

Rinku

...Petitioner

Versus

Vijay Kumar and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Shashikant Gupta, Advocate,
for the petitioner.

None for respondent No. 1/complainant despite service.

Ms. Gaganpreet Kaur, AAG, Haryana
for respondent No. 2.

JAISHREE THAKUR, J. (Oral)

This is a revision petition instituted by Rinku son of Satnarayan, who was held guilty for committing offence punishable under Section 498 IPC, vide judgment dated 17.12.2015, passed by the Judicial Magistrate First Class, Narnaul and by order of sentence dated 18.12.2015, he was sentenced to undergo simple imprisonment for a period of one year.

Aggrieved, the petitioner preferred an appeal against the aforesaid judgment, however, the appeal was dismissed by learned Additional Sessions Judge, Narnaul by order dated 16.12.2017 affirming the judgment of conviction and order of sentence passed by the trial Court.

Against the impugned judgments dated 17.12.2015 and 16.12.2017, passed by the trial Court as well as by the appellate Court, accused Rinku has come up in this revision petition before this Court.

In brief, the facts of the case, as per prosecution, are that

marriage of complainant Vijay Kumar was solemnized with Smt. Shivani on 05.07.2006 as per Hindu rites and rituals. After marriage, they were residing as husband and wife in village Mosnuta, Tehsil Narnaul. Out of this wedlock, a female child, namely Sonia, was born on 27.05.2008. Complainant was working in Army Canteen for the last 10 years and he used to come to his village from time to time. The complainant was in Rajasthan in connection with his job. On 03.10.2011, her wife Shivani, after giving intoxicating substance to the family members, fled away from her matrimonial home along with minor daughter. Complainant was intimated about this fact by his brother. Complainant came to his village, however, before his arrival, his brother filed a complaint with the Nizampur, Police Post on 04.10.2011 to the effect that Rinku (petitioner herein) took away Shivani and minor daughter. Complaints were also lodged with DGP, Haryana and ADGP, Crime Branch, Haryana, Superintendent of Police, Narnaul, however, no action was taken thereunder. Shivani and Rinku performed marriage on 04.10.2011 despite knowing that earlier marriage is in existence. Since no action was taken by the police authorities, the complainant filed a complaint to the Court of JMIC, Narnaul.

After preliminary evidence and pre-charge evidence led by the complainant, a prima-facie case under Sections 497 and 498 of the IPC against the accused Rinku was made out and he was charge-sheeted accordingly. Since the accused-petitioner did not want to cross-examine any witness in after charge evidence, hence, the after-charge evidence was closed. In the statement, recorded under Section 313 Cr.P.C., the accused-petitioner denied the allegations levelled against him and pleaded his innocence.

After hearing both the counsel for the parties and appraising the entire evidence and material on record, the petitioner was firstly convicted by the learned trial Court and thereafter the judgment of conviction was maintained by the learned Additional Sessions Judge, Narnaul as mentioned above.

I have heard learned counsel for the parties and have perused the material on record.

No one has put in appearance on behalf of respondent No. 1/complainant despite service.

After arguing for sometime, learned counsel for the petitioner/revisionist contended that in-fact the petitioner has already undergone substantive period of his sentence. The total period of sentence awarded is one year. Accused-revisionist has already faced protracted trial. Counsel for the petitioner does not assail the findings of the conviction recorded against the petitioner by both the Courts below in case the sentence of the petitioner is reduced to the one already undergone by him.

Ms. Gaganpreet Kaur, AAG, Haryana, opposes this prayer while submitting that there is no infirmity in the orders so passed.

There is little scope of the High Court interfering in the revision petition filed as there is no infirmity in the orders passed. From the custody certificate, placed on file today in the Court, it is evident that the petitioner has already undergone 04 months and 26 days inclusive of remissions of 15 days. The total period of sentence awarded is one year. The case is of the year 2011. The petitioner has faced protracted trial. During the period of trial, the petitioner has undergone agony of trial. Under these circumstances, I am of the considered view that the ends of justice would be met in case the order

of sentence is modified by reducing the sentence of the petitioner to the one already undergone.

Therefore, while affirming the judgment of conviction of the petitioner, the order of sentence dated 18.12.2015 which was affirmed by the learned Additional Sessions Judge, Narnaul, vide judgment dated 16.12.2017; is modified by reducing the same to the one already undergone by the petitioner/revisionist.

Disposed of, accordingly.

27.04.2018
Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No