

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 1390 of 2007 (O&M)
Date of decision : May 08, 2019

Rakesh Kumar

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Gurveer Sidhu, Advocate, for the petitioner
Mr. Ripu Daman Singh, AAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

Revisionist Rakesh Kumar along with Saneh Lata, Sushma, Sumitra Devi and Shailender Kumar were tried in a case bearing FIR No. 244 dated 26.5.1992, under Sections 498-A, 406 IPC, Police Station City Bhiwani and vide judgment order dated 5.6.2003, the court of learned Chief Judicial Magistrate, Bhiwani acquitted accused Shailender, Sushma and Saneh Lata for all the offences and accused Rakesh and Sumitra were found guilty for commission of offence under Section 498A IPC. Accused Rakesh had been sentenced to undergo imprisonment for two years and to

pay a fine of Rs 500/- and in default of payment of fine, to further undergo SI for one month under Section 498-A IPC. However, accused Sumitra had been released on probation of good conduct. Convict-Rakesh aggrieved over this finding filed an appeal against his conviction. It is through judgment dated 10.8.2007 the court of learned Additional Sessions Judge,(Fast Track Court), Bhiwani dismissed the appeal of convict Rakesh.

Still unsatisfied the convict had come up in this criminal revision with the aid of Section 401 Cr.P.C. before this Court in this revision.

Mr. Gurveer Sidhu, Advocate, Amicus Curiae for the petitioner revisionist at the very onset has submitted that the petitioner has been found guilty under Section 498-A IPC and sentenced to undergo maximum imprisonment for two years and out of which he has already undergone 03 months 07 days and that the co-accused Sumitra had already been released on probation by the trial court itself. It is contended that the petitioner is suffering pangs of this prosecution since 26.5.1992 and thus for more than 26 years the Sword of Damocles is hanging over his head. The petitioner over this period has advanced in age and thus prayed for showing leniency by way of grant of concession of probation.

Though the learned State counsel does not disputes the fact of this long suffering by the petitioner but has opposed the grant

of the concession of probation on the grounds that he had ill-treated his wife and therefore, is not entitled to any concession.

Appreciating the submissions for more than 26 long years the petitioner had been suffering for this and by now must have grown old and thus has suffered sufficiently on account of such a remiss towards his own spouse. It is further worth while to note here that none of the courts below in view of sentence of imprisonment so awarded had ever considered grant of concession in terms of Section 360 Cr.P.C. which is legislated for the first time offenders with a view to ensure that they are not sent behind the bars and where they may go awry from the path of rectitude and become hardened criminals. Keeping in view all the circumstances, this Court finds it to be a fit case for releasing the petitioner on probation. Accordingly, the petitioner is ordered to be released on probation of good conduct on furnishing probation bond to the satisfaction of learned trial Magistrate in the sum of Rs 20,000/- with one surety of like amount upon 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. The fine amount imposed by the courts below shall be treated as cost of the proceedings. If probation bond is not furnished within two months, on receipt of copy of this order, the instant revision petition shall be deemed to have been dismissed.

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

Intimation regarding passing of this order be also sent to the petitioner.

May 08, 2019
'tiwana'

(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No