

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 2552 of 2006 (O&M)
Date of decision : May 06, 2019

Pawan Kumar

....Petitioner

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Gurveer Sidhu, Advocate, for the petitioner
Mr. Amrik Narwal, DAG Haryana for the State/
respondent no. 1
None for respondent no. 2

Fateh Deep Singh, J. (Oral)

Complainant now respondent no. 2 Bala Devi filed a criminal complaint bearing No. 93 of 17.8.1998, under Sections 498-A, 406 34 IPC against Pawan Kumar, Sushil Kumar, Smt. Imrati, Sushma, Rajni, Ramphal and Smt. Nimbo. After pre-summoning evidence, Pawan Kumar, Sushil Kumar, Smt. Imrati and Ramphal were summoned to face trial. Vide judgment order dated 23.8.2002 the court of learned Judicial Magistrate Ist Class, Siwani, all the accused were found guilty for commission of offence under Section

498-A IPC read with Section 120-B IPC and sentenced them to undergo imprisonment for one year each and to pay a fine of Rs 250/- each and in default of payment of fine to further undergo RI for 20 days each under Section 498-A IPC. They were further sentenced to undergo rigorous imprisonment for three months each under Section 120-B IPC. The convicts aggrieved over this finding filed an appeal against their conviction. It is through judgment dated 2.12.2006, the court of learned Additional Sessions Judge, Fast Track Court, Bhiwani partly allowed the appeal thereby acquitting convicts Sushil, Imrati and Ramphal for all the charges and convict Pawan Kumar had been acquitted under section 120-B IPC while maintaining his conviction under Section 498-A IPC.

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, 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 one year and out of which he has already undergone 25 days. It is contended that the petitioner is suffering pangs of this prosecution since the year 1998 and thus for more than 21 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 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 21 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 one month, 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 06, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No