

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

CRR No.256 of 2006 (O&M)
Decided on:- May 10, 2019.

Sunil Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Gaurav Singla, Advocate (Amicus Curiae),
for the petitioner.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present criminal revision against the judgment dated 25.01.2006 passed by learned Additional Sessions Judge, Gurdaspur whereby his appeal against the judgment of conviction and order of sentence dated 11.10.2004 passed by learned Sub-Divisional Judicial Magistrate, Batala, was dismissed.

Briefly stated, FIR No.44 dated 01.06.1997 under Sections 498-A and 323 IPC as well as Section 3/4 of the Dowry Prohibition Act was registered against the petitioner at Police Station City Batala, District Gurdaspur on the basis of statement made by complainant Poonam. In her statement, she stated that about 10 years ago, she got married with the petitioner and out of this wedlock, three children were born. At the time of

marriage, her parents had given sufficient dowry articles as per their capacity, but after the marriage, her husband Sunil Kumar (petitioner herein) and her parents-in-law, namely, Prem Nath and Shama Rani started harassing her on account of demand of dowry. Her husband also started beating her and ultimately, she was turned out of the matrimonial home. In her complaint, she had given details of harassment and beatings given to her at the hands of accused on account of demand of dowry.

After registration of the FIR, investigation was carried out and the statements of witnesses were recorded. The accused were arrested and produced in Court. After completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the accused free of cost. Finding a prima facie case against the petitioner and his parents, they were charge-sheeted under Sections 498-A and 323 IPC to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 11.10.2004 convicted the petitioner for the commission of offence punishable under Sections 498-A and 323 IPC. However, the other co-accused, namely, Prem Nath and Shama Rani were acquitted of the charges levelled against them. Vide separate order dated 11.10.2004, learned trial Court sentenced the petitioner to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/- and in default thereof, to undergo further rigorous imprisonment for a period of two months for commission of offence under Section 498-A IPC and to undergo rigorous imprisonment for a period of six months under Section 323 IPC.

It was, however, ordered that both the aforementioned sentences shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the aforesaid judgment of conviction and order of sentence before the Court of Session. However, vide judgment dated 25.01.2006, learned Additional Sessions Judge, Gurdaspur dismissed the said appeal.

It is in the aforesaid circumstances, the petitioner has filed the present criminal revision.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner, but restricted his arguments on the point of quantum of sentence awarded to the petitioner.

He has argued that as against the awarded sentence of 1 year, the petitioner has already undergone actual imprisonment for 1 month and 4 days. He has contended that apart from the fact that the FIR was registered on 01.06.1997, the marriage of the petitioner with the complainant was 10 years old on the date of registration of the FIR. To his information, the complainant is not residing in India. Moreover, the parents of the petitioners were acquitted by the trial Court for the similar allegations. The petitioner is a first time offender and there is no other case registered against him. He has prayed that the sentence of imprisonment awarded to the petitioner be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner. Custody certificate filed by learned State counsel in Court today, is taken on record.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding petitioner Sunil Kumar guilty for commission of offence under Sections 498-A and 323 IPC. The appellate Court has also dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioner, which may warrant interference of this Court by invoking its revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, it is a conceded fact that as against the awarded sentence of 1 year, the petitioner has already undergone actual imprisonment for a period of 1 month and 4 days. He has been facing the agony of criminal proceedings since 01.06.1997 i.e. the date when the FIR in question was registered against him. No other case has been pointed out against the petitioner.

Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered incarceration for a period of 1 month and 4 days, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

However, there will be no change in the sentence of fine imposed to the petitioner.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

May 10, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No