

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : May 06, 2019

1. Criminal Revision No. 2386 of 2007 (O&M)

Balbir Singh

....Petitioner

versus

State of Punjab and another

....Respondents

2. Criminal Revision No. 620 of 2008 (O&M)

Gurdeep Kaur

....Petitioner

versus

State of Punjab and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Vibhu Agnihotri, Advocate for petitioner
in CRR-2386-2007 and respondents no. 2 to 5 in
CRR-620-2008

Mr. Rakeshinder Singh Sidhu, AAG, Punjab for the State/
respondent no. 1 in CRR-2386-2007 and CRR-620-2008

None for respondent no. 2 in CRR-2386-2007 and
petitioner in CRR-620-2008

Fateh Deep Singh, J. (Oral)

The aforesaid criminal revision petitions are being disposed of by this common order as the same are arising out of one and the same impugned judgment/order.

Complainant-Gurdeep Kaur filed a criminal complaint bearing No. 48/1/2006 of 18.11.1987 under Sections 406, 498-A read with Section 34 IPC against Balbir Singh, Sadhu Singh, Gurmeet Kaur and Parminder Singh. After pre-summoning evidence, all the accused were summoned to face trial. Vide judgment order dated 9.8.2006, the court of learned Judicial Magistrate Ist Class, Jalandhar, all the accused were found guilty for commission of offence under Sections 406, 498A IPC and sentenced them to undergo imprisonment for one year under Section 406 IPC. They were further sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs 500/- and in default of payment of fine, to further undergo RI for one month under Section 498-A IPC. The convicts aggrieved over this finding filed an appeal against their conviction. The complainant Gurdeep Kaur had also filed revision petition for enhancement of the sentence awarded to the convicts. It is through common judgment dated 7.12.2007 the court of learned Additional Sessions Judge, Jalandhar acquitted convict Parminder

Singh of all the charges while appeal of other convicts namely Sadhu Singh and Gurmeet Kaur was partly allowed, releasing them on probation. However, appeal of convict Balbir Singh and revision of complainant Gurdeep Kaur had been dismissed.

Still unsatisfied the convict and complainant have come up in these criminal revisions with the aid of Section 401 Cr.P.C. before this Court. The convict has prayed for his acquittal whereas the complainant has prayed for enhancement of sentence to Balbir Singh, Sadhu Singh and Gurmeet Kaur and conviction of Parminder Singh, since acquitted by the lower appellate court.

Mr. Vibhu Agnihotri, learned counsel for the petitioner revisionist-Balbir Singh at the very onset has submitted that the petitioner has been found guilty under Sections 406, 498-A IPC and sentenced to undergo maximum imprisonment for one year and out of which he has already undergone about two months. It is contended that the petitioner is suffering pangs of this prosecution since the year 1987 and thus for more than 32 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 32 long years petitioner-Balbir Singh 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, petitioner-Balbir Singh 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, revision petition bearing CRR-2386-2008 stands disposed of accordingly.

Since the private respondents have already suffered pangs of this prosecution for the last 32 years and the offences for which they have faced the trial are not of heinous nature and no overwhelming evidence has been pointed out by the counsel, thus, there is no sufficient ground for enhancement of sentence to Balbir Singh, Sadhu Singh and Gurmeet Kaur and conviction of Parminder Singh, since acquitted by the lower appellate court. The revision petition bearing CRR-620-2008, thus, being without any merit stands dismissed.

May 06, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No