

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

CRR No.746 of 2009 (O&M)
Decided on:- July 22, 2019.

Shri Pal.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Jangvir Singh Hooda, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present criminal revision against the judgment dated 09.03.2009 passed by learned Additional Sessions Judge, Faridabad whereby his appeal against the judgment of conviction dated 27.01.2007 and order of sentence dated 29.01.2007 passed by learned Judicial Magistrate 1st Class, Palwal, was partially allowed.

Briefly stated, FIR No.85 dated 13.02.2003 under Sections 498-A and 406 IPC was registered against the petitioner and other co-accused, namely, Dev Dutt and Malti at Police Station Sadar Palwal, District Faridabad on the basis of application moved by complainant Bidhu Ram before Women Cell, Faridabad. In his application, he had alleged that he got married his daughter Lalita with Shri Pal (petitioner herein) on 26.04.1999. The petitioner

was living with his brother Dev Dutt and *Bhabhi* Malti. Since the date of marriage, all the accused were harassing his daughter on account of demand of dowry. The accused had also given beatings to his daughter due to which her tooth was broken. Thereafter, the complainant went to the village of the accused and took his daughter with him. Then accused Shri Pal said that he will keep the daughter of complainant only when the complainant would give him Rs.50,000/-.

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 other co-accused, they were charge-sheeted under Sections 406 and 498-A IPC vide order dated 10.07.2003 passed by the trial Court to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 27.01.2007 convicted the petitioner and accused Dev Dutt for the commission of offence punishable under Sections 406 and 498-A IPC, whereas accused Malti was acquitted of the charge framed against her. Vide separate order dated 29.01.2007, learned trial Court sentenced the petitioner and co-accused Dev Dutt to undergo imprisonment as under:

<u>Offence</u>	<u>Sentence</u>
406 IPC	Rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- each and in default

thereof, to further undergo rigorous imprisonment for a period of one month each.

498-A IPC

Rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- each and in default thereof, to further undergo rigorous imprisonment for a period of one month each.

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

Feeling aggrieved, the petitioner and other co-accused Dev Dutt preferred an appeal, whereas complainant Bidhu Ram filed a revision petition against the aforesaid judgment of conviction and order of sentence before the Court of Session. However, vide impugned judgment dated 09.03.2009, learned Additional Sessions Judge, Faridabad partially allowed the appeal and dismissed the revision petition filed by the complainant. Accused Dev Dutt was acquitted of the charge levelled against him, whereas petitioner Shri Pal, though was acquitted of the charge framed against him under Section 498-A IPC, but his conviction and sentence under Section 406 IPC was upheld.

It is in the aforesaid circumstances, petitioner Shri Pal 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 apart from the fact that the petitioner and Lalita are living separately in their respective families, as against the awarded sentence of six months, the petitioner has already undergone actual imprisonment for 15 days. He has contended that the petitioner is a poor

person and is not a previous convict. He has been suffering the agony of criminal proceedings since 13.02.2003 i.e. the date of registration of the FIR in question.

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. She has contended that the scope of interference in the revisional jurisdiction is too minimum.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the appellate Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Section 406 IPC. There is no illegality or perversity in the findings given by the appellate Court regarding conviction of the petitioner under Section 406 IPC, which may warrant interference of this Court by invoking its revisional jurisdiction. Even otherwise, learned counsel for the petitioner has restricted his arguments qua the quantum of sentence only. The conviction of the petitioner under Section 406 IPC is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, perusal of the paper book shows that after passing of the impugned judgment dated 09.03.2009 passed by the appellate Court, the petitioner was ordered to be taken into custody and it was on 23.03.2009, while admitting the present criminal revision, this Court had suspended his sentence during pendency of the petition. Thus, it is clear that as against the awarded sentence of six months under Section 406 IPC, the petitioner has already undergone actual imprisonment for a period of about 15 days. He has been facing the agony of

criminal proceedings since 13.02.2003 i.e. the date when the FIR in question was registered against him. No other case has been pointed out against the petitioner.

Therefore, considering the fact that it is a matrimonial dispute and the parties are settled in their respective families, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered incarceration for a period of about 15 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 awarded to the petitioner.

With aforesaid modification in the order of sentence passed by the appellate Court, the present revision petition stands dismissed.

July 22, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No