

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 401 of 2010 (O&M)
Date of decision : February 13, 2019

Manoj Kumar Sikka

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Gautam Thapar, Advocate, for the petitioner

Mr. Amrik Narwal, DAG Haryana for the State

Mr. Anshul Sharma, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

Revisionist Manoj Kumar Sikka along with Vikky @ Vikas and Kailash Rani were tried in a case bearing FIR No. 613 dated 2.12.2000, under Sections 498-A, 406, 506 IPC, Police Station Old Faridabad and through its judgment order dated 18/19.8.2009 the court of learned Judicial Magistrate Ist Class, Faridabad acquitted accused Vikky @ Vikas and Kailash Rani for all the offences and Manoj Kumar Sikka was found guilty for only commission of offence

under Section 498A IPC and sentenced to undergo simple imprisonment for two years and to pay a fine of Rs 2000/- and in default of payment of fine, to further undergo SI for six months. The convict aggrieved over this finding filed an appeal against his conviction. It is through judgment dated 2.2.2010 the court of learned Sessions Judge, Faridabad dismissed the appeal of accused Manoj Kumar Sikka.

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. Gautam Thapar, learned counsel 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 simple imprisonment for two years and out of which he has already undergone sufficient incarceration. It is contended that the petitioner is suffering pangs of this prosecution since 2.12.2000 and thus for more than eighteen 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 assisted by Mr. Anshul Sharma, Advocate, for complainant 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 18 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 petitioner is also directed to deposit a sum of Rs 20,000/- with the trial court at the time of submission of bond which shall be paid to complainant/wife by the trial court after giving due notice to her. The fine amount imposed by the courts below shall be treated as cost of the proceedings. If

probation bond is not furnished and full compliance is not made 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.

February 13, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No