

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-21925 of 2019 (O&M)

Date of decision : December 02, 2019

Roshan Lal

....Petitioner

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ankush Chaudhary, Advocate, for the petitioner
Mr. Ripu Daman Singh, AAG, Haryana for the State
Mr. Pardeep Sharma, Advocate, for respondent no. 2

Fateh Deep Singh, J. (Oral)

A criminal case by way of FIR No. 373 dated 8.9.2013 under Sections 323, 498-A, 406 & 506 IPC was got registered with Police Station Pataudi, Gurugram against accused Roshan Lal being the husband, Kartar Singh and Sona Devi being father and mother of the husband respectively by complainant Babita.

The brief allegations were to the effect that the marriage between the complainant and accused Roshan Lal was solemnized on 16.4.2012 where the complainant family had given immense dowry gifts qua items as well as household costly items besides cash. It is alleged that the accused family was not happy with the same and often physically and mentally tortured the lady and after

repeated interventions the matter was resolved only temporarily but again erupted on account of similar conduct by the accused. The accused were put up for trial where the complainant testified as PW1 and examined her mother Kishanwati as PW2, brother Rajesh as PW3. PW4 ASI Pehlad Singh detailed the investigations followed by PW5 HC Jitender and in the process the prosecution proved documents Ex. PW1/A to Ex. PW1/F, Ex. PW4/A to Ex. PW4/B.

The accused in their stand denied the allegations and had taken the simplicitor plea of innocence and mediator of this marriage DW1 Siya Ram and co-villager DW2 Ram Niwas corroborated the stand of the defence. Thereafter the evidence was closed. The court of learned Sub Divisional Judicial Magistrate, Pataudi vide judgment/order dated 30.10.2018/31.10.2018 acquitted Kartar Singh and Sona Devi whereas found accused Roshan Lal guilty for offences under Sections 498-A, 323, 506 IPC and sentenced him as follows:-

<i>Sr. No.</i>	<i>Offence U/s</i>	<i>Rigorous imprisonment for a period of</i>	<i>Fine</i>	<i>In default of making payment the convict shall undergo simple imprisonment</i>
1	498-A IPC	3 years	Rs 10,000/-	9 months
2	323 IPC	1 year	Rs 1,000/-	4 months
3	506 IPC	1 year	Rs 10,000/-	4 months

It is during the intervening period a compromise was arrived at between the parties when the appeal of the convict-

appellant Roshan Lal was pending. In pursuance of the same, the present petition under Section 482 Cr.P.C. has been filed by the convict seeking quashment of the judgment of conviction and sentence passed by the learned SDJM, Pataudi (Gurugram) on the basis of compromise Annexure P/3.

Learned counsel for the petitioner and counsel for respondent no. 2/complainant have sought to impress upon the court that the parties have settled their dispute through compromise deed attested copy of which has been placed on the record and is dated 5.2.2019. It is claimed that as a consequence of this settlement, the parties have also got their marriage dissolved through a decree of divorce through mutual consent whereby the complainant wife has undertaken to get the present criminal prosecution and conviction set aside. Counsel for the petitioner has placed reliance on **Bitan Sengupta Vs. State of West Bengal, 2018 SCC Online SC 762, Sube Singh VS. State of Haryana 2013 (4) RCR (Criminal) 102, Dr. Arvind Brasul Vs. State of Madhya Pradesh 2008 (5) SCC 794 and Sarbjit Singh and others Vs. State of Punjab and others (CRM-M 3189 of 2014).** Their Lordships of the Hon'ble Apex Court in **B.S. Joshi and others Vs. State of Haryana and another AIR 2003 SC 1386** held as follows:-

“There is no doubt that the object of introducing Chapter

XX-A containing Section 498-A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interest of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code”.

Similar view was expressed by their Lordships of Hon'ble Apex Court in **Bitan Sengupta Vs. State of West Bengal, 2018 SCC Online SC 762** holding that where the parties have compromised and there is specific undertaking given by the complainant wife that she does not want to prosecute the appellant the interest of justice demand that continuation of criminal proceedings would be an abuse of process of the court. Since it is a pure matrimonial dispute between the couple and the offences for which the petitioner-husband has been found guilty are not of

heinous nature and rather would be in the interest of the parties being young and chances of their future settlement are quite bright and it would be a futile exercise to allow the parties to proceed against each other over a dispute which has been put an end to. Powers under Section 482 Cr.P.C. are unbridled and can be exercised to meet the ends of justice and thus to prevent further harassment to the appellant who had sufficiently compensated the complainant and both have obtained a mutual divorce impels this Court to exercise its inherent powers and thereby allow the petition as a consequence of which FIR No. 373 dated 8.9.2013 under Sections 323, 498-A, 406 & 506 IPC, Police Station Pataudi, Gurugram and all proceedings arising out of it are quashed. The judgment/order dated 30.10.2018/31.10.2018 passed Sub Divisional Judicial Magistrate, Pataudi is also set aside thereby acquitting the accused-petitioner.

The present petition stands disposed of.

December 02, 2019

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**(Fateh Deep Singh)
Judge**

*Whether speaking/reasoned ?
Whether Reportable ?*

*Yes/No
Yes/No*