

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 1746 of 2014 (O&M)
Date of decision : May 03, 2019

Mohinder Singh

....Petitioner

versus

State of UT, Chandigarh

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr.Charanpreet Kathuria, Advocate, for the petitioner
Ms. Ashima Mor, APP, UT Chandigarh

Fateh Deep Singh, J. (Oral)

Revisionist Mohinder Singh along with Ranjit Singh, Sunehari Devi, Amar Singh and Jarnailo Devi were tried in a case bearing FIR No. 101 dated 15.4.2005, under Sections 406, 498-A IPC and under Section 4 of Dowry Prohibition Act, 1961, Police Station Sector-11, Chandigarh and through its judgment order dated 1.8.2013 the court of learned Additional Chief Judicial Magistrate, Chandigarh all the accused, except accused Amar Singh, who died during the trial, were found guilty for commission of offence under Sections 406, 498A IPC and 4 of Dowry Prohibition Act and

sentenced to undergo rigorous imprisonment for two years each under Section 406 IPC and further sentenced to undergo rigorous imprisonment for two years each and to pay a fine of Rs 100/- each and in default of payment of fine, to further undergo SI for seven days each under Section 498-A IPC. They were further sentenced to undergo rigorous imprisonment for six months each under Section 4 of the Dowry Prohibition Act. However, all the sentences were ordered to run concurrently. The convict Mohinder Singh, Sunehari Devi and Jarnailo Devi aggrieved over this finding filed an appeal against their conviction. Vide judgment dated 5.5.2014, the court of learned Additional Sessions Judge, Chandigarh partly allowed the appeal and acquitted convicts Sunehari Devi and Jarnailo Devi and reduced sentence awarded to convict Mohinder Singh. He has been directed to undergo RI for six months under Section 406 IPC and similar is the sentence under Section 498-A IPC and Section 4 of the Dowry Prohibition Act.

Still unsatisfied the convict-Mohinder Singh had come up in this criminal revision with the aid of Section 401 Cr.P.C. before this Court in this revision.

Mr. Charanpreet Kathuria, learned counsel for the petitioner revisionist at the very onset has submitted that the petitioner has been found guilty under Sections 406, 498-A IPC and Section 4 of the Dowry Prohibition Act and sentenced to undergo

maximum imprisonment for six months and out of which he has already undergone 04 months and 21 days. It is contended that the petitioner is suffering pangs of this prosecution since 15.4.2005 and thus for more than 14 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 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 fourteen 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 wife. 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 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, the revision petition stands disposed of accordingly.

May 03, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No