

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 4050 of 2015 (O&M)
Date of decision : May 02, 2019

Santosh and another

....Petitioners

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Abhinav Sood, Advocate, for the petitioners
Both the petitioners in person

Mr. Amrik Narwal, DAG Haryana for the State

Mr. Sushil Sheoran, Advocate, for respondent no.2
Respondent no. 2 also in person

Fateh Deep Singh, J. (Oral)

Revisionists Santosh and Sandeep were tried in a case bearing FIR No. 9 dated 17.01.2013, under Sections 498-A, 406, 506 IPC, Police Station Badhra, District Bhiwani and through its judgment order dated 28.1.2015 the court of learned Judicial Magistrate Ist Class, Charkhi Dadri acquitted both the accused. The complainant-Santosh aggrieved over this finding filed an appeal against acquittal

of the accused. It is through judgment dated 9.10.2015, the court of learned Additional Sessions Judge, Bhiwani allowed the appeal of the complainant and both the accused were held guilty for the commission of offence under Sections 498A, 506 IPC and sentenced them to undergo rigorous imprisonment for two years each and to pay a fine of Rs 2000/- each and in default of payment of fine, to further undergo SI for two months each under Section 498-A IPC and to undergo rigorous imprisonment for one year each and to pay a fine of Rs 1000/- each and in default of payment of fine, to further undergo SI for one month each under Section 506 IPC.

Against the aforesaid findings, convicts have come up in this criminal revision with the aid of Section 401 Cr.P.C. before this Court.

Mr. Abhinav Sood, learned counsel for the petitioners revisionists at the very onset has submitted that the petitioners have been found guilty under Section 498-A, 506 IPC and sentenced to undergo rigorous imprisonment for maximum two years and out of which they have already undergone sufficient incarceration. It is further submitted that the parties have effected compromise and the complainant is residing with the petitioners and that the petitioners are suffering pangs of this prosecution since 17.1.2013 and thus for more than six years the Sword of Damocles is hanging over their

head. The petitioners are first offenders and thus prayed for showing leniency by way of grant of concession of probation.

Though the learned State counsel assisted by Mr. Sushil Sheoran, Advocate, for complainant does not disputes the fact of this long suffering by the petitioners but has opposed the grant of the concession of probation on the grounds that they have ill-treated the complainant and therefore, are not entitled to any concession.

Appreciating the submissions for more than six long years the petitioners have been suffering for this. The parties have also effected a compromise and presently the complainant is residing with the petitioners. They have also made statements before this Court regarding effecting of compromise. The complainant has also made statement that she has no objection if the concession of probation is extended to the petitioners. 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 petitioners on probation. Accordingly, the petitioners are ordered to be released on probation of good conduct

on furnishing probation bonds to the satisfaction of learned trial Magistrate in the sum of Rs 50,000/- with one surety each 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 two months, on receipt of copy of this order, the instant revision petition shall be deemed to have been dismissed. The complainant reserves the right for moving appropriate application for withdrawal of concession of probation to the petitioners in case she is maltreated by the petitioners again.

With modification in sentence as aforesaid, the revision petition stands disposed of accordingly.

May 02, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No