

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 519 of 2016 (O&M)
Date of decision : May 02, 2019

Harinder Singh

....Petitioner

versus

State of Punjab and another

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Randeep Singh Rana, Advocate, for the petitioner

Mr. Rakeshinder Singh Sidhu, AAG, Punjab for the State

Mr. Kuldeep Singh Sainij, Advocate, for respondent no. 2

Fateh Deep Singh, J. (Oral)

Revisionist Harinder Singh along with Darshan Singh and Amarjit Kaur were tried in a case bearing FIR No. 146 dated 19.4.2010, under Sections 406, 498-A IPC, Police Station Kotwali, Patiala and through its judgment order dated 25.9.2015 the court of learned Judicial Magistrate Ist Class, Patiala acquitted accused Darshan Singh and Amarjit Kaur for all the offences and Harinder Singh was found guilty for commission of offence under Sections

406, 498A IPC and sentenced to undergo imprisonment for one year and to pay a fine of Rs 1000/- and in default of payment of fine, to further undergo SI for one month under Section 406 IPC and also awarded similar sentence under Section 498-A IPC. The convict aggrieved over this finding filed an appeal against his conviction. The complainant-Jasbir Kaur had also filed two appeals, one against the acquittal of Darshan Singh and Amarjit Kaur co-accused of Harinder Singh and the second for enhancement of substantive sentence imposed upon convict-Harinder Singh. It is through common judgment dated 28.1.2016, the court of learned Additional Sessions Judge, Patiala dismissed all the three appeals of accused Harinder Singh as well as of complainant Jasbir Kaur.

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. Randeep Singh Rana, 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 sentenced to undergo maximum imprisonment for one year and out of which he has already undergone three months. It is further submitted that the parties have also effected compromise Annexure P/3, which was taken on record vide orders dated 20.7.2018. It is

contended that the petitioner is suffering pangs of this prosecution since 19.4.2010 and thus for more than nine 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. Kuldeep Singh Saini, 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 nine 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 including the compromise effected between the parties, 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 02, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No