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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 1149/2018**

MS. RAMAN SAYAL

..... Appellant

Through Afroz Ahmad with Mr. Ashish Dutta,
Advvs.

versus

STATE/ GOVT OF NCT OF DELHI & ORS

..... Respondents

Through SI Vikas Kumar, PS Hari Nagar
Mr. Tarang Srivastava, APP for State
Mr. J.C. Mahindro and Mr. Shubham
Aggarwal, Advocates for R-2 and 3.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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26.09.2019

Vide the present appeal, the appellant prays as under:-

- a) *accept the present appeal and the impugned judgment dated 09.03.2017 passed by Shri Rakesh Kumar-I, Additional Sessions/Special Judge (NDPS) (WEST) Tis Hazari Courts, Delhi in Crl. Appeal No. 54186/2016 in case titled " Sh. Om Prakash Taneja (since expired) & Ors Vs Govt. of NCT of Delhi, be set aside qua the point of sentence only thereby released of the respondent No. 2 and 3 on probation and the sentenced awarded by the Ld. Trial Court may be upheld and the respondent No.2 and 3 be punished for the offence committed by them as per the judgment and order of the Ld. Trial Court dated 28.09.2012 and 05.10.2012 and beside the above in the interest of justice.*
- b) *In view of the facts and circumstances of the present*

case and position of the appellant as she has suffered the most due to the act and offence committed by the respondent No.2, she may be compensated as per the mandate of Section 357 Cr.P.C. as the respondent no. 2 has not paid any amount towards the maintenance, dowry articles and istridhan kept by him as well as for permanent alimony, in the interest of justice.

It is not in dispute that vide order dated 05.10.2012, the respondents were sentenced to undergo RI for a period of 2 years and pay a fine of Rs. 10,000/- for having committed offence under Section 406 IPC. In default of payment of fine, he is sentenced to undergo further SI for three months.

The convict also sentenced to RI for two years and a fine of ₹10,000/- each for having committed offence under Section 498A IPC. In default of payment of fine, they are sentenced to further SI for three months.

Being aggrieved, the respondent convicted challenged the same before the Court of Sessions in C.A. 54186/2016 and the same was disposed of vide order dated 09.03.2017 by modifying the sentence and the respondents/convicts were released on probation for a period of one year.

The fact remains that FIR No. 593/1993 was lodged in the year 1993 and the trial concluded vide order dated 28.09.2012.

Accordingly, Learned Session Court, while dismissing the appeal filed by the respondent allowed the appeal and modified the sentence by granting probation to the convicts subject to their furnishing a bond in the sum of ₹20,000/- each with one surety in the like amount, to remain in good conduct, not to indulge for one year in any illegal activity and to maintain peace and harmony in the locality.

It is made clear that in the event of failure on the part of the convicts

in furnishing the bond of probation, the sentence as awarded by the Learned Trial Court would come in force. It is further made clear that sentence qua payment of fine, as awarded by the learned Trial Court shall remain unchanged.

Counsel for the convicts/respondents submits that the amount has already been deposited.

In view of the above, since the probation period is over and there is no violation of the probation period and the fact that the FIR was filed in the year 1993. Therefore, I find no perversity or illegality in the order of the learned Sessions Court. Further, I find no merit in the present appeal and the same is accordingly dismissed.

SURESH KUMAR KAIT, J

SEPTEMBER 26, 2019

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