

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRA-S No.2054-SB of 2003 (O&M)
Date of Decision.06.01.2020**

Chanan Singh and another

...Appellants

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. S.S. Narula, Advocate
for the appellants.

Mr. Davinder Bir Singh, DAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

1. This is an appeal that has been filed by Sh. Chanan Singh and Swaran Kaur seeking to challenge the judgment of their conviction dated 16.10.2003 under Sections 306 and 498-A IPC in FIR No.46 dated 10.04.2000 under Sections 304-B and 498-A IPC, Police Station Sadar, Kapurthala and the order of sentence dated 18.10.2003 recorded thereunder.

2. Learned counsel appearing on behalf of the appellants contends that the Court below had misread the evidence in its entirety while convicting and sentencing the appellants to undergo rigorous imprisonment for a period of five years each for the offence punishable under Section 306 IPC and to undergo rigorous imprisonment for a period of one year and six months each for the offence punishable under Section 498-A IPC, both the sentences to run concurrently. It is argued that their son Dilbag Singh, husband of the deceased Nachhatar Kaur, who was also named in the FIR has subsequently been acquitted by the Sessions Judge, Kapurthala by judgment dated 22.01.2018. It is also argued that the statement of brother of the deceased Gurdeep Singh was recorded on 21.12.2017 before the Sessions Judge, Kapurthala wherein he

categorically stated that his sister committed suicide only on the ground that she had been denied visa by the Austrian Embassy and not account of demand of any dowry namely TV or fridge or on account of any harassment meted out to her by members of her husband's family or the husband himself. Gurdeep Singh had further stated that his father, who had recorded his statement had done so under pressure of the police.

3. Learned counsel appearing on behalf of the appellants further points out that in fact the matter has subsequently been compromised between the parties on 08.12.2016 wherein it has categorically been recorded that both Chanan Singh and his wife Swaran Kaur were not at fault and should not be made to suffer any more than what they have already undergone. The said compromise is available on the record as Annexure A-1 along with affidavit of Sh. Gurdeep Singh duly attested.

4. Learned counsel appearing on behalf of the appellants contends that despite the fact that he has a very good case on merits considering that their son Dilbag Singh already stands acquitted, he would have no objection in case the present appeal is disposed of on the ground of compromise and the fact that both the appellants have already undergone substantial part of their sentence i.e. a period of 3 years 7 months and 29 days in the case of Chanan Singh, who is now aged 78 years and in case of Swaran Kaur, aged 74 years, 1 year 7 months, out of 5 years as sentenced. He relies upon judgments rendered in **Sohan Lal Vs. State of Punjab 1979 CLJ (Criminal) 113** and **Balwinder Singh Vs. State of Punjab, CRR No.2574 of 2012 decided on 31.10.2012.** Further reliance has been placed upon **Gulab Das Vs. State of MP (2011) 10 SCC 765.**

5. I have heard learned counsel for the parties.

6. A perusal of the affidavit of Sh. Gurdeep Singh available on the record along with compromise would clearly reflect that Gurdeep Singh, brother of the deceased has clearly stated that he does not want the appellants to undergo any further imprisonment. Moreover, it cannot be lost sight of, that son of the appellants namely Dilbag Singh, husband of the deceased, has already been acquitted by the Court of Sessions Judge, Kapurthala in FIR No.46 dated 10.04.2000 under Sections 304-B and 498-A IPC, which judgment is also available on record as Annexure A-3. Dilbag Singh was acquitted after a regular trial based on the statement given by PW4 Gurdeep Singh, brother of the deceased, who in his cross-examination has clearly stated that there was no demand of dowry and that the statement had been made under the pressure of his father and the police in the proceedings by which the appellants had been convicted.

7. A reading of the said statement which is available on the record, clearly reflects that the deceased, sister of Gurdeep Singh, had committed suicide as she remained tense on account of refusal of visa and that she had a cordial relationship with both her husband and her in-laws. Apart from the compromise that has been arrived at between the parties, it would be relevant to note that both the appellants are at the fag end of their life and appellant No.1 has already undergone substantial portion of his sentence as per the custody certificate available. He has already undergone a period of 3 years 7 months 29 days of actual confinement and with remissions has undergone 3 years 8 months 3 days out of 5 years , whereas appellant No.2 has undergone 1 year 7 months out of 5 years. No useful purpose would be achieved in sending them to undergo rest of their sentence. They have also faced the agony of protracted criminal proceedings which is a punishment enough. The instant

FIR pertains to the year 2000 and the petitioners herein are facing the agony of protracted trial since last about 20 years, which itself to some extent can be considered as a mitigating circumstance in the background of this case.

8. Therefore, while the judgment of conviction dated 16.10.2003 passed by Additional Sessions Judge, Kapurthala is upheld, the order of sentence is modified by reducing the sentence of the appellants to the one already undergone by them. The appeal is disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

January 06, 2020

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No