

104.

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

CRR-2022-2014

Date of decision: 21.01.2020.

LAL CHAND

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Aman Vashisht, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner-accused has filed the present revision petition against the judgment dated 04.06.2014 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, whereby his appeal against the judgment of conviction dated 31.03.2012 and order of sentence dated 02.04.2012 passed by learned Judicial Magistrate Ist Class, Sub Division, Bilaspur, Yamuna Nagar, was dismissed.

Briefly stated, an FIR No.37 dated 11.03.2016, under Sections 498-A, 406, 323, 506, 120-B of IPC was registered at the behest of complainant-Neelam with the averments that she was married with Lal Chand on 06.03.2003 at Village Sadiqpur, District Yamuna Nagar. Two children were born out of this wedlock. Though sufficient dowry was given at the time of marriage of the complainant, but since the accused persons were not satisfied with the dowry articles, they used to taunt and harass her

for bringing insufficient dowry. At number of times, she was given beatings/injuries. She was turned out of the matrimonial home after giving severe beatings in three clothes and all her *istridhan* was retained by the accused persons and the same has been misappropriated by them. She was also criminally intimidated with dire consequences. Accordingly, she reported the matter to the police on 11.03.2016.

During investigation, all the dowry articles were recovered and the accused were arrested. On completion of all formalities of investigation, final report under Section 173 Cr.P.C. was submitted in the Court.

Copies of challan and other documents were supplied to the accused persons free of costs as envisaged under Section 207 Cr.P.C.

On finding a prima facie case, the accused persons were charge-sheeted under Sections 498-A, 406, 323, 506, 120-B of IPC, to which, they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, the trial Court, vide order dated 31.03.2012, acquitted the accused persons of the charges under Sections 406 read with Section 120-B, 506 of IPC. However, they were held guilty and convicted for the commission of offences punishable under Sections 498-A, 323 read with Section 34 IPC. Vide separate order dated 02.04.2012, they were sentenced as under:-

Offence	Sentence
323 read with Section 34 IPC	To undergo rigorous imprisonment for two months each
498-A IPC	To undergo rigorous imprisonment for six months each and to pay a fine of Rs.500/- each. In default of payment of fine, to further undergo rigorous imprisonment for a period of one month each.

Aggrieved against the aforesaid judgment of conviction and order of sentence, the accused persons filed an appeal and the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri vide his judgment dated 04.06.2014, partly allowed the appeal and parents-in-law and brother-in-law of the complainant i.e. Sat Pal, Sona Devi and Dharminder were acquitted of the charges framed against them. However, the appeal as regards the husband of the complainant i.e. the appellant herein, was dismissed and he was taken into custody.

It is in the aforesaid circumstances, the petitioner has filed the present criminal revision.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner, but restricted his arguments on the point of quantum of sentence awarded to the petitioner.

Learned counsel for the petitioner-accused states that it being a matrimonial dispute between the parties and the petition filed by the parties under Section 13-B of Hindu Marriage Act having been decreed by the learned Additional District Judge, Yamuna Nagar at Jagadhri vide judgment dated 12.10.2017, he has the instructions to state that the sentence awarded to the appellant be reduced as undergone.

He has argued that as against awarded sentence of 6 months, the petitioner remained in custody for about 2 months and 3 days. He has contended that the petitioner is a first time offender and is the only bread earner of his family. He has been suffering the agony of criminal proceedings since 11.03.2016 i.e. the date of registration of the FIR in question.

Learned State counsel has filed the custody certificate of the appellant in court today, which is taken on record. She does not dispute the custody. However, she has opposed the plea of taking a liberal view, as the allegations against the appellant are demand of dowry and giving beatings to the wife and it is for this reason, he was convicted.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 498-A, 323 read with Section 34 IPC. The appellate Court has also dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioner under Sections 498-A, 323 read with Section 34 IPC, which may warrant interference of this Court by invoking its revisional jurisdiction.

Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as against the awarded sentence of 6 months, the appellant has already suffered incarceration for a period of 2 months and 3 days. The appellant is not previous convict and is facing the agony of criminal proceedings since 11.03.2006, when the present FIR was registered against him.

It being a matrimonial dispute and in the background of the case, even in a petition filed by the parties under Section 13-B of the Hindu

Marriage Act, decree of divorce has been granted by the learned Additional District Judge, Yamuna Nagar at Jagadhri vide judgment dated 12.10.2017, this Court finds that the sentence of the appellant deserves to be reduced as undergone. Moreover the compromise has been entered into between the parties after the registration of the present FIR. The parties have reconciled their disputes, which led to passing of decree of divorce under Section 13-B of Hindu Marriage Act.

Therefore, taking into account the protracted trial, antecedents of the appellant coupled with the fact that in a petition filed under Section 13-B of Hindu Marriage Act, a decree of divorce has been granted vide judgment dated 12.10.2017, this Court feels that the ends of justice would be met, if the sentence awarded to the appellant is reduced to the period already undergone by him.

Ordered accordingly.

However, there shall be no change in the sentence of fine awarded by learned trial Court.

With aforesaid modification in the order of sentence, the present revision petition is dismissed.

(HARI PAL VERMA)
JUDGE

21.01.2020
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No