

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

118

CWP-12979-2022 (O&M)

DATE OF DECISION: 15.11.2022

MAHESH CHAND

... Petitioner (s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Karnail Singh, Advocate for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 02.07.2020 whereby he has been dismissed from service.

Learned counsel for the petitioner submits that the petitioner had got married on 15.02.2016. The wife of the petitioner had unfortunately committed suicide within 6 months of their marriage. He was suspended on 22.10.2016 and convicted by the trial Court on 11.05.2018 for an offence under Section 304B of the Indian Penal Code, 1860 (for short 'IPC') and sentenced to undergo rigorous imprisonment for 10 years. He had been dismissed from the post of Assistant Lineman on account of his conviction in offence under Section 304-B IPC. His appeal is pending adjudication before this Court. His sentence has been suspended but his conviction has not been stayed. The petitioner, after his conviction, had preferred an appeal which

is pending adjudication before this Court. He, while referring to the instructions issued by the State government dated 26.03.1975, submits that offence under Section 304B has not been set out in these instructions which have exhaustively mentioned offences under various sections of the IPC which would amount to moral turpitude. He further submits that this Court in the case of **Om Parkash Vs. State of Haryana and others in CWP No.2209 of 2006**, decided on **01.08.2017**, while referring to the afore-noted instructions, had held that the petitioner therein was convicted under Section 304A would be entitled to be taken back in service as offence under Section 304A was not mentioned in the instructions dated 26.03.1975.

Heard.

The petitioner had been appointed as Assistant Lineman on regular basis on 26.10.2012. He got married on 15.02.2016. His wife is stated to have unfortunately committed suicide on 23.08.2016. He was suspended from service on 22.10.2016 and convicted by the trial Court on 11.05.2018 for an offence under Section 304B IPC and sentenced to undergo rigorous imprisonment for 10 years. His appeal is pending adjudication before this Court. His sentence has been suspended but his conviction has not been stayed. I do not find any merit in the contention of the learned counsel for the petitioner that as offence under Section 304B IPC does not find mention in the list of offences involving moral turpitude set out in these instructions dated 26.03.1975 for the reason that Section 304B IPC was inserted in the statute book by the amendment carried out in the year 1986. The instructions were issued prior thereto and therefore the question of 304B IPC mentioned in these

instructions would not arise. In view of the increasing menace of dowry, dowry deaths and 'bride burning' wherein young (and a recently married) women were being harassed and often resulting in the loss of their lives, the offence under Section 304B IPC was added through the amendment on recommendation of Law Commission. In Chapter III of "Dowry Deaths and the Substantive Criminal Law" set-forth in the 91st Report by Law Commission of India titled Dowry Deaths and Law Reform: Amending the Hindu Marriage Act, 1955, Indian Penal Code, 1860 and the Indian Evidence Act, 1872 recommended that this amendment will deal effectively with suicides that are the result of ill-treatment within the family.

Offence under Section 304-B IPC is founded on human greed and lust for money. It demeans and degrades the status of women as an equal partner in marriage. Therefore, I do not find any illegality in the action of the respondents in dismissing the petitioner after his conviction under Section 304B IPC.

Consequently, I do not find any merit in this petition which stands dismissed.

If, however, the petitioner's conviction is stayed or he is acquitted then it would be open to him to approach to the respondents for reinstatement.

(ANUPINDER SINGH GREWAL)
JUDGE

15.11.2022

SwarnjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No