

CRR-2132-2008

2024.PHHC.066483



-1-

**238 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRR-2132-2008

Date of decision: 6th May, 2024

Hira Lal Sharma

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ravi Gakhar, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.
Mr. Munish Behl, Advocate for respondent No.2.

MANISHA BATRA, J (ORAL):-

The instant revision petition has been filed under Section 401 of Cr.P.C. against the judgment dated 14.07.2008 passed by the Court of learned Additional Sessions Judge, Faridabad in Criminal Appeal No. 7 of 2005 titled as 'Sanjay Vs. State of Haryana', whereby the benefit of probation was extended to respondent No.2 under the provisions of Section 4 of Probation of offenders Act, 1958 (for brevity 'the 1958 Act')

2. Shorn of unnecessary details, the relevant facts in brief are that the FIR No. 602 dated 19.09.1997 was registered as against the present respondent No.2 and 3 of his family members on the basis of written complaint filed by the present petitioner making allegations that her daughter who was married with respondent No.2 was being subjected to cruelty and harassment by the respondent No.2 and his family members on



account of demand of dowry and levelling allegations of physically assaulting her, criminally intimidating her and further that her Istridhan was misappropriated. Vide judgment dated 10.08.2005, present respondent No.2 had been held guilty and convicted for commission offences punishable under Sections 406 and 498-A of IPC and was ordered to undergo rigorous imprisonment for a period of two years for commission of offence punishable under Section 498-A and for a period of one year qua commission of offence punishable under Section 406 of IPC. Fine was also imposed and punishment in default thereof was also ordered to be given. The offences were ordered to run concurrently. The respondent No.2 preferred an appeal before the Court of Additional Sessions Judge, Faridabad against the said order and as discussed above, benefit of probation was given to him. Compensation to the tune of Rs. 10,000/- was also awarded. Aggrieved by the same, the instant petition has been filed for modification in the order of probation and enhancing the sentence of the respondent No.2.

3. It is argued by learned counsel for the petitioner that the impugned order is liable to be set aside as by extending benefit of probation to respondent No.2, the learned Appellate Court committed a grave error as the gravity of the allegations as levelled against him had not been taken into consideration. The allegations as levelled against him were well proved and did not make out a case for reducing the sentence and releasing the respondent No.2 on probation. It is also argued that the amount of compensation as directed to be paid by respondent No.2 is also quite less



keeping in view the fact that all the dowry articles including gold ornaments belonging to his daughter had not been returned by respondent No.2 and his family members till date and therefore, it is urged that the compensation as awarded by learned Appellate Court is also not sufficient and deserves to be enhanced.

4. On the other hand, learned counsel for respondent No.2 has argued that the Appellate Court after considering all the facts and circumstances of the case, has released respondent No.2 on probation and the said order warranted no interference. Therefore, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for both the parties at considerable length and have gone through the record carefully.

6. The petitioner is dissatisfied by the order passed by learned Appellate Court, whereby the benefit of Section 4 of the Probation of Offender Act, 1958 (for short 'the 1958 Act') was given to respondent No.2 and he was released on probation. No doubt, under Section 401 of Cr.P.C., this Court is competent to exercise any of the powers conferred on a Court of revisional jurisdiction at the instance of private complainant. Reference in this context can be made to the decision rendered by Hon'ble Supreme Court in '**Bachan Singh Vs. State of Punjab, 1979(4) SCC 754**', wherein it was held that there was nothing to prevent the High Court from invoking its powers under Section 397 read with Section 401 of Cr.P.C. and to make an order for the enhancement of the sentence. The same has been reiterated by a



Division Bench of the High Court of Bombay in '*Anand Singh Vs. State of Maharashtra (2022) 3 Bom CR(cri) 34*'. The petitioner-complainant seeks enhancement in the sentence as awarded to respondent No.2 by the Appellate Court by modifying the order of the trial Court whereby the latter was directed to undergo rigorous imprisonment for a period of two years and one year each qua commission of offences punishable under Sections 498-A and 406 of IPC. The learned Appellate Court had extended benefit of probation to respondent No.2 while observing the fact that a decree of divorce on the basis of mutual consent has been passed between him and Richa Sharma who is daughter of the revision petitioner and that respondent No.2 had been facing the litigation in this case since 1997 and had also faced other civil as well as criminal litigations. Learned Appellate Court had also observed that there are chances of the respondent No.2 coming in contact with hardened criminals and also took into consideration the fact that he did not have any criminal antecedents and further by observing that he had already suffered, had passed order for releasing him on probation.

7. It is noteworthy that the object underlying the provisions of Section 4 of the 1958 Act is that the first offenders must not be sent to jail for commission of less serious offences, on account of grave risks to their attitude to life to which they are likely to be exposed as a result of their association with the hardened and habitual criminal inmates of the jail as this would clearly cause more harm to them than to reform them and for that reason, it would perhaps also be to an extent prejudicial to the larger interest



of the society as a whole. The types of persons who are in the contemplation of the legislature under the probation law are those who are not hardened or dangerous criminal, but those who have committed offences under some momentary weakness of character or some tempting situations. By placing an offender on probation, the Court saves him/her from the stigma of jail life and also from the contaminating influence of hardened prison inmates. It is always expedient to release a person found guilty of having committed an offence not punishable with death or imprisonment for life, on probation for good conduct. The learned Appellate Court while taking all these facts into consideration, had passed an order for release of respondent No.2 on probation and in view of the observations as made above, I see no reason to hold that while exercising the revisional powers, any interference is directed to be made by this Court in the order granting probation to respondent No.2 as the same is well reasoned.

8. So far as the prayer made by the revision-petitioner for enhancement in the amount of compensation of Rs. 10,000/- to his daughter is concerned, the impugned judgment itself reveals that the amount of Rs. 8,000/- had already been deposited by respondent No.2 which was directed to be adjusted towards compensation and the remaining amount was directed to be paid within a period of fifteen days. There is nothing on record to suggest that the same has not been so paid. The present petition pertains to the year 2008. Further keeping in view the fact that all ties between the daughter of the petitioner and respondent No.2 stand severed due to their



obtaining decree of divorce by way of mutual consent, I see no reason to interfere with the order with regard to the sufficiency of amount of compensation directed to be paid by the respondent No.2 as well. In view of the discussion as made above, the impugned order warrants no interference, accordingly, the petition is dismissed.

9. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

6th May, 2024
Parveen Sharma

- | | | |
|-------------------------------|---|-----|
| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |