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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1476-2011(O&M)
Date of Decision: 23.07.2024

RAM SANJIWANPetitioner

Versus

UT OF CHANDIGARHRespondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Simmy, Advocate for
Mr. Salil Dev Singh Bali, Advocate
for the petitioner

Mr. Manish Bansal, P.P., U.T. Chandigarh

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned judgment dated 05.07.2011 passed by learned Additional Sessions Judge, Chandigarh, whereby, the appeal filed by the petitioner against the judgment of conviction and the order of sentence dated 10.04.2007 passed by learned Judicial Magistrate Ist Class, Chandigarh in FIR No.92 dated 23.06.1994 registered under Sections 406, 498-A IPC at Police Station-West. The petitioner was sentenced as under:-

Under Section	Sentence
406 IPC	R.I for 1 ½ years.
498-A IPC	R.I for 1 ½ years along with a fine of Rs.1,000/-. In case of default on fine, R.I. for 2 months.

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2. The facts, in brief, are that the FIR (supra) was registered on the basis of complaint dated 23.06.1994 moved by the complainant-wife, wherein, she alleged that she was married to the petitioner on 26.07.1992 by way of a lavish ceremony. Various valuable items including gold ornaments, furniture, clothes, television, scooter were given to the petitioner and his family at the time of their marriage. Soon after their marriage, the petitioner started maltreating the complainant on account of bringing insufficient dowry. Despite her numerous requests, the petitioner refused to mend his behaviour and after 10.06.1993, when a female child was born out of the wedlock, his behaviour turned more cruel. The complainant received beatings on multiple occasions from the petitioner when he was in an inebriated state. Ultimately, the complainant was ousted from her matrimonial home on 13.02.1994 and her *Istridhan* was misappropriated by the petitioner. In furtherance of the FIR (supra), trial ensued after due procedure and the petitioner was convicted in the manner mentioned above.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been granted divorce from the complainant-wife on the ground of cruelty. He further submits that he is not assailing the impugned judgment of conviction on merits and restricts his prayer to modification of the order of quantum of sentence to that of the release of the petitioner on probation for good conduct. It is also submitted that the petitioner does not have any criminal antecedents and that he has been facing protracted trial for the last 30 years. The sentence of the petitioner was suspended by this Court vide order dated 29.08.2011.



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4. Learned counsel for the respondent-State submits that he has no objection to the restricted prayer qua the petitioner, so long as his conviction is upheld. Upon asking, he submits that the petitioner has undergone 1 month of custody as per the custody certificate dated 23.07.2024 placed on record before this Court.

5. I have heard learned counsel for the petitioner and perused the paper book with his able assistance.

6. Sections 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in ***Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722*** speaking through Justice Bela M. Trivedi, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

7. A two Judge Bench of the Hon'ble Supreme Court in ***Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763*** speaking through Justice Sanjay Kishan Kaul, has held as under:-



“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

8. In view of the above, the judgment and order dated 10.04.2007 passed by learned Judicial Magistrate Ist Class, Chandigarh as well as the judgment dated 05.07.2011 passed by learned Additional Sessions Judge, Chandigarh apropos the case at hand, are upheld. However, having regard for the fact that the petitioner has no criminal antecedents, this court is inclined to give him the benefit of probation for good conduct.

9. Consequently, while maintaining the conviction and sentence imposed on the petitioner, it is directed that the petitioner be released on probation for good conduct on furnishing a personal bond of Rs. 20,000/- with a surety of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of two years, to the satisfaction of the concerned trial court.

10. The petitioner shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commits breach of the undertaking given by him, he shall be called upon to undergo the remaining period of sentence imposed upon him in the present case.

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11. With the aforesaid directions, the instant petition stands allowed.
12. Pending miscellaneous applications, if any, shall stand disposed of
accordingly.

23.07.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No