



643

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1535-2012 (O&M)
Date of decision: 11.12.2024

Jagir Singh and another

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Upasna Gandhi, Advocate (*amicus curiae*)
for the petitioners.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 27.03.2012 passed by learned Additional Sessions Judge, Fatehgarh Sahib, vide which the judgment of conviction dated 22.01.2011 and the order of sentence of even date passed by learned Chief Judicial Magistrate, Fatehgarh Sahib, in FIR No.85 dated 17.06.2001 under Sections 354, 406, 498-A, 506, 148, 149 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Khamano, convicting petitioner No.1 Jagir Singh

2024:PHHC:165443



under Sections 354, 406, 498-A of IPC and petitioner No.2 Narinder Singh under Sections 406 & 498-A of IPC and sentencing them to undergo rigorous imprisonment for a maximum period of one year and to pay a fine of Rs.1,000/- each along with default mechanism, were upheld.

2. Brief facts of the case are that marriage between petitioner No.2 Narinder Singh and complainant-Narinder Kaur was solemnized on 20.02.1999 and out of this wedlock, one male child, namely Parminder Singh, was born in December, 1999. In the marriage, sufficient dowry articles were given to in-laws of the complainant, however, after few days, petitioner No.1 Jagir Singh (father-in-law) asked her to bring the bottle of liquor from the refrigerator and she refused to do and thereafter, he gave beatings to her and strangulated her. The complainant told about the said incident to her parents, who came to her matrimonial home and petitioner No.1 Jagir Singh apologized for his conduct. She was forced to bring Rs.40,000/- from her parents, but her father could arrange only Rs.5,000/-. After three months of marriage, petitioner No.1 came to room of the complainant and tried to outrage her modesty. When she told about the said incident to her husband-petitioner No.2 and her mother-in-law, they did not believe her. Thereafter, the complainant told about this occurrence to her parents and when they visited her matrimonial home, the petitioners hide themselves. She was harassed for bringing insufficient dowry. In the month of September, 1999, petitioner No.2-

2024:PHHC:165443



her husband sent the complainant to the house of her parents to bring a diwan-bed and a scooter. In December, 1999, the complainant gave birth to a male child and after few days, petitioner No.1 Jagir Singh visited the house of her parents and insulted them and after that, none came to take the complainant from her parental house. Thereafter, a panchayat was convened by father of the complainant, where petitioner No.1 Jagir Singh gave written apology and the complainant was taken to her matrimonial home. The in-laws of the complainant again started maltreating her and on 03.12.2000, she was turned out of the matrimonial home.

3. Learned counsel for the petitioners, *inter alia*, contends that the petitioners were falsely implicated in the present case and the matrimonial dispute ensued between petitioner No.2 Narinder Singh and his wife-complainant Narinder Kaur due to temperamental differences and the marriage subsisted only for one year and the complainant left the matrimonial home with her own volition and there is no corroborative material on record to prove the case set by the prosecution. With regard to attracting the offence under Section 354 of IPC, no specific detail has been given regarding the date or time and the manner, in which the alleged incident took place. Further, *prima facie*, the offence under Section 498-A of IPC is also not proved, as the complainant, while appearing as PW1, admitted that articles given in her marriage were gift items and not her istridhan and provisions of Section 498-A

2024:PHHC:165443



of IPC have been misused to entangle the entire family of petitioner No.1. On the same set of allegations, mother of petitioner No.1 was granted the concession of probation, however, the petitioners were not considered for the same relief, although they are similarly situated. It is further contended that the judgments passed by learned Courts below are based on conjectures and surmises. The petitioners don't have any criminal antecedents and they are facing trial for the last 23 years. Learned trial Court ought to have considered the case of the petitioners for releasing them on probation under Section 361 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [*now Section 402 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')*] read with Sections 3 & 4 of the Probation of Offenders Act, 1958 (for short 'Act of 1958').

4. *Per contra*, learned State counsel supports the judgments passed by learned Courts below, while contending that the petitioners had misused and abused the process of law by giving false evidence on oath before the Court and therefore, they were rightly convicted and sentenced by learned trial Court and their conviction and sentence was upheld by learned Additional Sessions Judge, Fatehgarh Sahib.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

6. Sections 3 & 4 of the Act of 1958 empower the Courts to release



the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 & 361 of Cr.P.C. (*now Sections 401 & 402 of BNSS*), 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.”

2024:PHHC:165443



8. In view of the aforesaid facts and circumstances, judgment passed by learned Additional Sessions Judge, Fatehgarh Sahib, upholding the judgment of conviction and order of sentence dated 22.01.2011 passed by learned trial Court, is upheld, however, having regard to the fact that there are no criminal antecedents against the petitioners and both of them have actually undergone sentence of 08 months and 04 days, out of rigorous imprisonment of one year awarded by learned trial Court, this Court is inclined to give them the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioners, it is directed that they shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- each with surety of the like amount and on further furnishing an undertaking to keep the peace and good behaviour for a period of one year, to the satisfaction of learned trial Court concerned. The petitioners will remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the petitioners fail to comply with the said directions or commit breach of the undertaking given by them, they will be called upon to undergo the sentence imposed upon them by learned Chief Judicial Magistrate, Fatehgarh Sahib and upheld by learned Additional Sessions Judge, Fatehgarh Sahib.

9. With the aforesaid observations and directions, instant revision petition stands disposed of.

2024:PHHC:165443



10. All the pending miscellaneous application(s), if any, shall stand disposed of.
11. The High Court Legal Services Committee is directed to pay the honorarium to Ms. Upasna Gandhi, Advocate, who was appointed as *Amicus Curiae* in this case to assist the Court, as per rules.

11.12.2024
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[HARPREET SINGH BRAR]
JUDGE

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