

CRR-3588-2012 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3588-2012 (O&M)

Date of decision: 05.08.2024

KRISHAN

... PETITIONER

V/s

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Shanika Khurmi, Advocate for petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

SUMEET GOEL, J.

1. Present criminal revision has been filed by the petitioner challenging his conviction in case FIR No.110 dated 14.07.2003, registered under Sections 323, 406, 498-A and 506 of the Indian Penal Code, at Police Station Garhi, District Jind, Haryana.

2. In the above-mentioned FIR the petitioner, along with his brother, was arrayed as an accused. The FIR was lodged on the complaint of the wife of the petitioner with the allegations that her marriage was solemnized with the petitioner on 22.06.1997 as per Hindu Rites and ceremonies. Father of the complainant gave sufficient dowry to the petitioner & sufficient amount was spent on the engagement and marriage ceremonies.

From the very beginning of marriage, the petitioner started torturing and

beating the complainant for bringing less dowry. On 15.01.1998 complainant was told that her father had given less dowry and a motorcycle was demanded. The sister-in-law of the petitioner i.e. wife of the brother of the petitioner demanded Rs.1 lac for construction of her house. When the complainant expressed his father's inability to meet the demand a slap blow was given on her face. On 20.01.1998 complainant was turned out of her matrimonial house. On 15.01.2000 a panchayat was convened. Thereafter, the complainant gave birth to a female child. On 20.09.2002 a panchayat was convened in which the petitioner demanded motorcycle and Rs. 1 lac. He did not mend his ways. On 28.05.2003 she was again turned out of her house. Accordingly, a complaint was filed on 13.06.2003 under Section 156(3) of the Cr.P.C. which was sent for registration of the FIR. As such the present FIR was lodged.

3. Upon trial, the learned Judicial Magistrate, Ist Class, Narwana, vide Judgment dated 17.09.2010 held the petitioner and his brother guilty and convicted them under Sections 323, 498-A and 506 read with Section 34 of the Indian Penal Code. However, they were acquitted of the charge under Section 406 of the Indian Penal Code. Vide order of sentence dated 18.09.2020 petitioner along with his brother were awarded rigorous imprisonment of 6 months and a fine of Rs.500/- each for offence under Section 323 read with 34 IPC; rigorous imprisonment of 2 years and a fine of Rs.500/- each under Section 498-A read with Section 34 IPC; rigorous imprisonment of 6 months with a fine of Rs.500/- each under Section 506 read with Section 34 of IPC. In default of payment of fine further rigorous imprisonment of 1 month was awarded..

4. Against their conviction both the convicts filed an appeal in the Court of Additional Sessions Judge, Jind bearing criminal appeal No.143 of 30.09.2010. While partly allowing that appeal learned Additional Sessions Judge, Jind held that the complainant implicated her husband, her three Jeths and one Jethani namely Rani. Out of the five persons named by the complainant three were declared innocent by the police. The learned Additional Sessions Judge held that the allegations against the brother of the petitioner who was arrayed as an accused in trial Court were also vague and there is a growing tendency to come out with inflated and exaggerated allegations roping in every relation of the husband. Finding the evidence adduced by the prosecution not sufficient to return the finding of guilt qua the brother of petitioner namely Suresh, appeal qua him was allowed and he was acquitted of all the charges framed against him.

5. However, qua the petitioner the learned Additional Sessions Judge held that the prosecution has failed to prove the charges framed under Sections 323/34 and 506/34 IPC and his conviction under Sections was set aside. While maintaining the conviction of the petitioner under Section 498-A of IPC after taking into account that the complainant and the petitioner have since already parted ways by way of a decree of divorce, the learned Additional Sessions Judge, Jind reduced the sentence of the petitioner as imposed by the trial Court from 2 years to 1 year Rigorous Imprisonment with fine of Rs.500/-.

6. Assailing his conviction in the above manner the petitioner filed the present criminal revision petition before this Court. At the time of admission of this criminal revision petition following order was passed.

“Heard.

Admitted.

Custody certificate filed in the Court, today is taken on record.

As per custody certificate, the petitioner has under gone incarceration for a period of 02 months and 12 days out of the substantive sentence of 01 year awarded by the appellate Court in a matrimonial dispute. Revision is not likely to be heard in near future.

So, sentence awarded to the petitioner stands suspended during the pendency of the revision petition. Bail to the satisfaction of the Chief Judicial Magistrate, Jind.”

7. Now when the present criminal revision petition is listed before this Court for final disposal, at the outset, the learned counsel for the petitioner has abandoned the challenge to the conviction of the petitioner, however, he submits that the petitioner has already suffered a substantial part of the sentence awarded to him, therefore, the sentence awarded to him be reduced to the period already undergone. Learned counsel for the petitioner has contended that since lodging of the FIR in this case more than 21 years have passed. During the interregnum as per the custody certificate dated 24.07.2024 filed by the State, the Petitioner has already undergone an actual custody period of 2 months and 16 days. Moreover, the complainant and the petitioner

have already parted ways since long back through a decree of divorce passed between them. He prays for a lenient view in the matter of sentence.

8. Per contra, the learned counsel for the State opposed the said submission on the part of the petitioner and contended that the petitioner in view of the offence committed by him does not deserve any leniency.

9. I have heard learned counsel for the parties, perused the impugned judgments, and order of conviction and gone through the record of the case.

10. Since the learned counsel for the petitioner has withdrawn his challenge to the conviction in the present case, the conviction of the petitioner under Section 498-A of IPC is upheld. However, considering that the petitioner has endured the vagaries of trial, appeal, & the current criminal revision petition for over 21 years, this constitutes a mitigating circumstance. In my considered opinion, he merits leniency concerning the sentence, as addressed in his limited prayer in this criminal revision petition. The petitioner has not only faced prolonged criminal litigation but has also already undergone 2 months & 16 days of actual custody. The object of punishment, in the scheme of the welfare State and modern justice system, is correction of the wrongdoer and not wreaking gratuitous punitive vengeance on him. I am of the considered opinion that in view of the peculiar facts of the present case, the petitioner deserves indulgence. Since the petitioner is not a previous convict and has already suffered sufficient incarceration, has also paved the way for exercising discretion in his favour to reduce the sentence to meet the ends of justice. Since, there is no minimum sentence prescribed for the offence under Section 498-A of IPC for which the petitioner has been

convicted & considering that a reformative rather than punitive is to be adopted, the sentence of 1 year imprisonment with a fine of Rs.500/- awarded to the petitioner under Section 498-A is reduced to the period already undergone by the petitioner, keeping the fine part intact.

11. As a sequel to the above findings, the instant criminal revision petition is allowed in part and the conviction of the petitioner for offence under Section 498-A of IPC is upheld and the sentence awarded to him for the same is reduced to the sentence he has already undergone while maintaining fine. The petitioner is directed to deposit the amount of fine as imposed by the learned Additional Sessions Judge, Jind, (if not already paid) within 8 weeks from today. In case of failure to deposit the said amount of fine, the present revision petition shall be deemed to have been dismissed.

(SUMEET GOEL)
JUDGE

August 05, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No