

(2008) 03 P&H CK 0184

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 253 of 1994

Kewal Krishan

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: March 19, 2008

Acts Referred:

- Penal Code, 1860 (IPC) - Section 406, 498A

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Advocate: Kuldeep Sanwal, for the Appellant; Mehardeep Singh, AAG, Punjab, for the Respondent

Judgement

Kanwaljit Singh Ahluwalia, J.

Kewal Krishan son of Jugal Kishore was tried in a case FIR No. 73 dated 12.08.1988 registered at Police Station Sadar, Kapurthala under Sections 406/498-A IPC.

2. The learned Trial Court on 26.08.1992 held the petitioner guilty for the offence u/s 498-A IPC and acquitted the petitioner u/s 406 IPC. The learned Trial Court awarded rigorous imprisonment for a period of eight months and to pay a fine of Rs. 500/-, in default of payment of fine to further undergo rigorous imprisonment for two months.

3. Aggrieved against the same, the petitioner filed an appeal and the same was also dismissed by the Court of Additional Sessions Judge, Kapurthala on 06.04.1994.

4. Briefly stated prosecution case is that Nirmal Kanta was married with the accused-petitioner in December, 1984 according to the Hindu rites. It is stated that the dowry was entrusted to the petitioner and he started misbehaving and maltreating her after the marriage. He was not providing her food and cloth on account of alleged less dowry articles given at the time of marriage.

5. Prosecution examined Nirmal Kanta-PW1, Rajinder Singh-PW2, the co-employee of the petitioner, Lakhbir Singh ASI-PW3, the Investigating Officer, Lal Chand-PW4, the adopted father of Nirmal Kanta and Raghbir Singh, SI-PW5. The learned Trial Court rightly convicted the petitioner u/s 498-A IPC and acquitted him u/s 406 IPC.

6. Mr. Kuldeep Sanwal appearing on behalf of the petitioner has drawn my attention to the letters Exhibits D1 to D4 and has stated that they were the root cause of the marital discord. The learned Appellate Court has held that these letters were produced in the Court by the accused but it was stated by Nirmal Kanta that she has not received these letters.

7. The Two Courts below have relied upon the testimonies of Nirmal Kanta-PW1, Rajinder Singh-PW2 and Lal Chand-PW4. I can not re-appreciate or re-evaluate their evidence. Learned counsel appearing on behalf of the petitioner has failed to point out any patent illegality or incurable irregularity. Even otherwise, after going through the record, there is nothing to formulate any opinion different than the opinion expressed by the two Courts below.

8. Mr. Kuldeep Sanwal appearing on behalf of the petitioner has stated that in this case, marriage has taken place in 1984 and the FIR was registered in 1988. He has further states that about 20 years are going to lapse. The petitioner was only sentenced for eight months and he has already undergone about one month. It has further been stated that since the conviction has been construed as disqualification, the petitioner has lost his job also.

9. I am of the considered opinion that sending the petitioner behind the bar may not serve any useful purpose as his wife who has suffered is required to be compensated. Therefore, taking into account the totality and circumstances of the case, it is ordered that the sentence of the petitioner shall be reduced to the period already undergone, provided that the petitioner-husband shall compensate the wife and deposit an amount of Rs. 50,000/- in the Court of learned Chief Judicial Magistrate, Kapurthala. In case, this amount of Rs. 50,000/- is deposited, sentence of the petitioner shall be reduced to the period already undergone. In case, this amount of Rs. 50,000/- is not deposited within three months from today, no benefit of reduction of sentence shall accrue in favour of the petitioner. Amount of Rs. 50,000/- shall be disbursed to the complainant wife by CJM, Kapurthala.

With this modification, the instant petition stands disposed off.