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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-83-2020 (O&M)
Date of decision: 30.09.2024

Subash Chander

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Suresh Kumar Arya, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR, J. (ORAL)

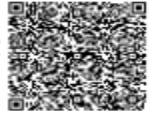
1. This revision petition has been preferred against the judgment dated 04.12.2019 passed by learned Additional Sessions Judge, Gurdaspur, vide which judgment of conviction dated 04.07.2019 and order of quantum of sentence of even date passed by learned Judicial Magistrate 1st Class, Gurdaspur, in complaint under Sections 498-A, 406, 323, 34 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Behrampur, were upheld.
2. The petitioner was convicted and sentenced under Section 498-A of IPC and was ordered to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.3,000/- along with default mechanism.



3. Brief facts of the case are that marriage of respondent No.2 was solemnized with the petitioner on 28.01.2013 according to Hindu rites and rituals and out of this wedlock, one male child was born. Respondent No.2 lost her parents, as such, her brothers spent Rs.10.00 lacs on her marriage and they gave sufficient dowry to the accused persons. Immediately after the marriage, the accused started complaining about bringing of insufficient dowry and harassed her. The accused demanded Rs.20.00 lacs in cash from respondent No.2 for the cloth business of the petitioner. When respondent No.2 said that her family is unable to pay the said amount to the accused, she was turned out of the matrimonial home several times after giving beatings to her and the matter was settled in the panchayat several times. Lastly, in March, 2015, respondent No.2 along with minor child was thrown out of the matrimonial home. Even the istridhan was not returned to her. The accused kept asking her either to fulfill their demand of more dowry or commit suicide.

4. The petitioner was convicted vide judgement dated 04.07.2019 by learned trial Court, which was upheld by lower appellate Court vide judgment dated 04.12.2019.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 04.07.2019 on merits and restricts his prayer to modification of the order of quantum of sentence, to that of the sentence already undergone by the petitioner, as he has already undergone a period of about 08 months and is not involved in any other



criminal activity.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by learned lower appellant Court and as such, he does not deserve any leniency.

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

8. In ***Deo Narain Mandal Vs. State of UP, (2004) 7 SCC 257***, a three-Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner, in which the offence is committed, age of the accused, should be considered, while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realise the damage caused not only to the victim, but



also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was committed and conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

10. The complaint in the present case was filed on 31.08.2015 and the petitioner has been suffering the agony of trial since the last 09 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate dated 28.09.2024, the petitioner is not involved in any other case and has undergone actual sentence of 07 months and 29 days, out of total sentence of 09 months and 09 days in the instant case.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

12. Consequently, the present revision petition is disposed of in the following terms:-



- (i) The judgment dated 04.12.2019 passed by learned Additional Sessions Judge, Gurdaspur, affirming the judgment of conviction dated 04.07.2019 is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous imprisonment for three years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs.3,000/- imposed upon the petitioner by learned trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the increased amount of fine in the learned trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.
13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

30.09.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No