

910 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRR-436-2019 (O&M)
Date of decision: 03.10.2024

GAURAV SHARMA

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nakul Sharma, Advocate
 for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred by the petitioner against the judgment of conviction and order on quantum of sentence dated 12.01.2016 vide which petitioner was convicted under Section 498-A of Indian Penal Code and sentenced to undergo total sentence of rigorous imprisonment for two years by Judicial Magistrate Ist Class, Abohar, and the said judgment of conviction has been upheld by learned Additional Sessions Judge, Fazilka vide order dated 29.01.2019.
2. The prosecution case was registered on the statement of Sonia Sharma alleging therein that she solemnized marriage with Gaurav Sharma (petitioner herein) on 15.04.2003 and thereafter they cohabited as husband and wife. She further stated that accused No. 2 Braham Parkash, her father-in-law and accused No. 3 Neelam, wife of Braham Parkash are also residing with them. She further stated that after the marriage a girl child was born from their lawful wedlock. She further stated that after the birth of girl child, accused started disputing with her and her parents took a loan and gave articles of Rs.40-50,000/- to accused and due to this fact accused remained calm for some



time. She further stated that her husband had relations with one Neha resident of Chandigarh and he used to talk with Neha and that her husband and Neha were talking for performing marriage. She further stated that one day she saw the obscene photo of her husband and Neha and thereafter she moved one complainant. She further stated that thereafter petitioner beaten her and stated that if she interferes in his relations, then he will kill her. She further stated that she was turned out from the matrimonial home and on 18.04.2017 when she was present in her parental house, then accused alongwith other persons came to their house and started quarreling with them and also abused them. She further stated that thereafter on next day they met DSP Abohar and moved complaint. She further stated that DSP marked the complaint to concerned SHO and thereafter SHO called the accused and accused stated that in future they will not maltreat the complainant. She further stated that thereafter accused brought Panchayat and taken her to the matrimonial home. She further stated that after some time, accused started talking with Neha and when she tried to stop her husband from talking with Neha, then on one night her husband came in drunkard condition and beaten her and also abused her parents. She further stated that when second girl was born, the accused persons again starting maltreating her. She further stated that on 07.03.2009 her father-in-law Braham Parkash taken her ornaments and on that day her husband came in a drunkard condition and beaten her. She further stated that thereafter she was turned out from the matrimonial home. She further stated that thereafter they filed complaint before the police and even thereafter accused used to threaten her on the phone. She requested to take legal action against the accused.



3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 12.01.2016 on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 03 months and 08 days and not involved in any other case.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency. However, he could not controvert the fact that petitioner is not involved in any other case.

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

6. In **Deo Narain Mandal v. 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, 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 v. 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 the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

7. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and submits that the said judgment 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.

8. The FIR in the present case was filed on 12.07.2009 and the petitioner has been suffering the agony of trial since the last 15 years. As per the custody certificate, the petitioner has undergone actual sentence of 03 months and 08 days out of total sentence of two years and he is not involved in any other case.

9. 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.

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

- (i) The judgment dated 29.01.2019 passed by the learned Additional Sessions Judge, Fazilka upholding the judgment of conviction is upheld, however, the order of sentence dated 12.01.2016 is

modified to the extent that the total sentence of imprisonment for two years awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 3,000/- imposed upon the petitioner is enhanced to Rs. 10,000/-. The petitioner is directed to deposit the amount of fine in the 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 simple imprisonment for one month.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

October 03, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No