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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1414-2009
Date of decision: 08.11.2024

HAFIZ @ ISRAIL

V/S

STATE OF HARYANA

...PETITIONER

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Karan Pathak, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred against the judgment dated 27.04.2009 passed by learned Additional Sessions Judge, FTC, Nuh, vide which, judgment of conviction and order of quantum of sentence dated 20/22.08.2007 passed by learned Judicial Magistrate Ist Class, Ferozepur Jhirka in case bearing FIR No.56 dated 18.04.2000 registered under Sections 406/498-A IPC at Police Station Ferozepur Jhirka, has been upheld.

2. The petitioner was sentenced as under:

Offence	Sentence
406 IPC	RI for 01 year with a fine of Rs.500/- in default of payment of fine to undergo SI for 15 days.
498-A IPC	RI for 01 year with a fine of Rs.500/- in default of payment of fine to undergo SI for 15 days.
All the sentences shall run consecutively.	

3. The brief-facts leading to the filing of the instant petition are that complainant was married to petitioner in the year 1995 in accordance with Muslim rites and rituals. After the marriage and *gona* in the year 1997,



matrimonial dispute ensued between the couple on account of demand of dowry and the in-laws of the complainant started harassing her and gave her beatings. Thereafter, complainant was turned out of her matrimonial home. Thereafter, *panchayats* were held but compromise could not be effected. Hence, the complaint.

4. The petitioner was convicted vide judgment dated 20/22.08.2007 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 27.04.2009.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 20.08.2007 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. Petitioner has undergone a total period of 01 month and 06 days and is not involved in any other case.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner as the 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.

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

8. 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.

9. A perusal of the judgment of conviction passed by the 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 modification of quantum of sentence.

10. The FIR in the present case was lodged on 18.04.2000 and the petitioner has been suffering the agony of protracted trial for last more than 24 years. Since his conviction, the petitioner has grown into law-abiding citizens and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone a period of more than 01 month out of total sentence of 01 year, in the instant case.

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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 petition is disposed of in the following terms:-

(i) The judgment dated 27.04.2009 passed by the learned Additional Sessions Judge, FTC, Nuh, affirming the judgment of conviction is upheld, however, the order of sentence dated 22.08.2007 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.10,000/- upon the petitioner.

(ii) 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 rigorous imprisonment for one month.

November 08, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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