



532 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-354-2009 (O&M)
Date of decision: 26.11.2024

JATINDER SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mayur Karkra, *amicus curiae*
for the petitioner.

Mr. Nitish Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred by the petitioner against the judgment dated 29.01.2009 passed by learned Additional Sessions Judge (Fast Track Court) Bathinda upholding the judgment and order on quantum of sentence dated 25.08.2007 passed by learned Judicial Magistrate Ist Class, Bathinda, vide which petitioner has been convicted under Section 498-A of Indian Penal Code and sentenced to undergo rigorous imprisonment for one year and fine of Rs. 1000/- was imposed with default mechanism in case bearing FIR No. 24 dated 22.03.1998 registered at Police Station Raman District Bathinda.

2. The FIR(supra) was registered on the statement of Babaljit Kaur-complainant to the effect that she was married to petitioner-Jatinder Singh on 4.12.1992. It is further averred that soon after the marriage, accused started teasing and taunting her for bringing insufficient dowry. After two years of marriage, she gave birth to a male child at her parental village and accused persons asked for a big car in Shushak. On refusal by the complainant to meet



this demand, she was given beatings by her in-laws and was turned out of the house. She narrated the entire episode to her father, who requested the in-laws of her daughter and left her there. In the month of December 1996, she was again turned out of her matrimonial home and she stayed at her parental home for 8/9 months. Again her father requested her in-laws to not to harass and humiliate her and left her there, but they did not mend their ways. She came back to her parental house being harassed by her in-laws. Again her father went to her in-laws and made efforts for reconciliation, but to no effect. Rather accused persons refused to keep the complainant until and unless their demand of car is not fulfilled. On the basis of this statement, FIR was registered.

3. On assessing all the material available on the record, the petitioner was convicted vide judgment dated 25.08.2007 by learned JMJC, Bathinda. Aggrieved by the same, the petitioner preferred an appeal, which was dismissed by learned lower Appellate Court vide judgment dated 29.01.2009.

4. Learned counsel (*amicus curiae*) *inter alia* contends that learned Courts below have not taken into consideration the evidence available on record and without any cogent evidence with regard to harassment caused to the complainant on account of demand of dowry the petitioner was convicted. The allegations are prior to January 1998 and the FIR(supra) was registered only in March 1998 and the evidence which were relied upon, was hear-say evidence and further the petitioner has duly proved on record the compromise Ex. P-2 between the petitioner and complainant and a perusal thereof clearly indicates that there was no dispute on account of demand of dowry between them. As such the factual ingredients attracting the offence under Section 498-A of IPC are not available on record. He further submits that the petitioner has already undergone custody of 07 months and 07 days and is not involved in any other criminal activity.



5. *Per contra*, learned State counsel opposes the prayer of petitioner as the learned JMIC, Bathinda has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the same has also been upheld by the learned lower Appellate Court. As such, the petitioner does not merit any leniency.

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

7. 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 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 the conduct of the accused to



strike a balance between the efficacy of law and the chances of reformation of the accused.

8. 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.

9. The FIR in the present case was lodged on 22.03.1998 and petitioner has been suffering the agony of protracted trial for more than last 26 years. Since his conviction, petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, has undergone actual sentence of 07 months and 07 days out of total sentence of rigorous imprisonment of one year, in the instant case.

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

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

(i) The judgment dated 29.01.2009 passed by learned Additional Sessions Judge, Bathinda affirming the judgment of conviction dated 25.08.2007 passed by learned JMIC, Bathinda is upheld, however, the order of sentence dated 25.08.2007 is modified to the extent that substantive 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 and the amount of fine i.e. Rs.1000/- imposed upon the petitioner is enhanced to Rs. 5,000/-.

(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 15 days.

12. High Court Legal Services Committee is directed to pay remuneration to *amicus curiae* as per rules.

November 26, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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