

343

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2111-2010 (O&M)
Date of decision: 18.05.2024

SMT. NEELAM

...PETITIONER

V/S

THE STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashit Malik, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 29.07.2010 passed by learned Additional Sessions Judge, Faridabad partly upholding the judgment of conviction and order of quantum of sentence dated 05.03.2008/07.03.2008 passed by learned Judicial Magistrate Ist Class, Faridabad in FIR No. 714 dated 19.06.1998 registered at Police Station Central Faridabad, vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Neelam	498-A of Indian Penal Code	Rigorous imprisonment of two years.	Rs. 2000/- and in default of payment of fine further awarded simple imprisonment for three months.
		323 of Indian Penal Code	Rigorous imprisonment for six months.	Rs. 500/- and in default of payment of fine further awarded simple imprisonment for 15 days.

		506 of Indian Penal Code	Rigorous imprisonment for six months	Rs. 500/- and in default of payment of fine further awarded simple imprisonment for 15 days.
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2. Learned Judicial Magistrate Ist Class, Faridabad vide judgment dated 05.03.2008 convicted the petitioner under Sections 498-A, 323, 406 and 506 of Indian Penal Code. But learned Additional Sessions Judge, Faridabad, vide order dated 29.07.2010 partly allowed the appeal filed against the judgment of trial Court while upholding the said judgment of conviction under Sections 498-A, 323, and 506 of Indian Penal Code and acquitted the petitioner under Section 406 of Indian Penal Code.

3. The case was registered on the statement of Devlata on an application moved by her to Senior Superintendent of Police Faridabad on 19.06.1998. The complainant Devlata has mentioned in the complaint that she was married to Lakhbir Singh on 26.11.1995 and enough dowry was given in the marriage, but from the second day of the marriage, she was harassed and tortured and she was taunted that Lakhbir was Engineer and they had a three story building in Sector 7 and had 25 acres of land in the village and they were expecting one Maruti car and a plot in posh sector. On 29.11.1995 demand of Rs. 25,000/- was raised from her parents for going to honeymoon and out of shyness, her father gave Rs.22,000/- in the presence of Jawahar Singh after withdrawing the same from the bank. Thereafter, she was mentally tortured and her in-laws were instigated by Rajvardhan and Harshvardhan, brothers-in-law of Satbir Singh her jeth as they were living in Sector-78 near the house of her-in-laws. Also Lakhbir put pressure upon her to get money for making payment

**CRR-2111-2010 (O&M)****3**

of the same to photographer for video prepared in the marriage and on 15.12.1995. Rs.16,000/- were given by her parents after withdrawing the same from the bank, in the presence of Gokal Chand son of Hariya and Ram Chand son of Kashi Ram. The atrocities of her in-laws did not stop and her husband used to be instigated by her mother-in-law Ramwati, Nanad Neelam @ Meenam (petitioner herein), jethani Archna and brothers of Archna namely Harshvardhan and Rajvardhan and she used to receive beatings from her husband, who used to come in the house under influence of liquor. Sometimes, her mother-in-law, nanad (petitioner) and jethani used to caught her from hair and she was used to be brought on the floor and used to be given beatings with slaps and kicks and they used to demand Maruti car and a plot in Sector 9. Also they demanded Rs.1,00,000/- on the pretext of admission of her dewar Shailender in MBA and her father gave Rs. 40,000/- in cash as well as fruits and sweet of Rs.1000/- to her mother-in-law Ramwati in the presence of Yad Ram son of Sohan Lal and Desh Raj son of Bhajan Singh, but her harassment continued. One day in October-1996 when her husband was giving beatings to her under the influence of liquor, then her father-in-law came to her rescue and tried to save her, but her nanad (petitioner herein) gave a push to her father-in-law upon which he fell down on the floor and he suffered fracture of pelvic bone and he was operated in Arora Nursing Home NH-5 Faridabad and she was pressurized to pay expenses of the payment of treatment of her father-in-law and on 30.11.1996 her father gave Rs.14,000/- to Lakhbir Singh in the presence of Gokal Chand and Jawahar Singh and thereafter, her in-laws except her father-in-law continued to torture her and pressurize her to bring more dowry. On 14.03.1997 she was turned out from her matrimonial house after

**CRR-2111-2010 (O&M)****4**

giving beatings by her mother-in-law, nanad (petitioner), jethani Archna and her husband, who took her forcibly on the motorcycle for leaving her in her parental home in the night at 12 O'clock and on the way she was thrown after giving a push from the running motorcycle and she suffered miscarriage as she had pregnancy of two months and she was admitted by her father in Shivam Hospital Air Force Road NIT Faridabad. On 18.09.1997, a Panchayat was convened and her father-in-law admitted that his wife and his sons were greedy persons and were demanding dowry and he felt sorry for the criminal act of Lakhbir Singh done on 14.03.1997. He preferred to transfer 1/5th share in land in the name of the complainant and accordingly, decree of 1/5th share was suffered by her father-in-law in favour of complainant on 22.04.1997. Thereafter, rein the of terror was let loose by the family members of her in laws except her father-in-law and she was used to be tortured physically and mentally and her jeth started demanding back the land transferred by her father-in-law and also demanded a Maruti car and a plot in Sector-9. She was used to be given beatings by her mother-in-law, nanad and jethani and Satbir had put a knife on her neck and also put pistol against her temple and he asked to transfer the land in his name and he also threatened me to solemnize marriage of his brother at some other place to get more dowry and he also threatened to kill her and her father in case she reported the matter to the police. Earlier her father-in-law used to support her but later on he also started favouring his wife and his sons. Also his dewar Shailender used to taunt her. According to the complainant, Lakhbir Singh her husband was concealed by her-in-laws. Also she was not made accessible to her husband on telephone and her in laws were not disclosing the whereabouts of her husband and her dowry articles

**CRR-2111-2010 (O&M)****5**

were taken into possession by her in laws. On 19.06.1998 at around 8 a.m. when she asked about the whereabouts of her husband from her mother-in-law and jethani, then they became furious and her mother-in-law gave slap to her and her jethani caught her from her hair and she was brought down on the floor and Shailender gave beatings to her with danda and Satbir gave kick blows in her stomach and her father-in-law kept on instigating them for giving more beatings. When she was given beatings, then in the meantime, Deshraj Chauhan their relative reached over there and she was thrown out of her matrimonial house and she was threatened by Satbir to run away otherwise he would have get her and her father dead and she came to the house of her father and informed her father about the incident.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 29.07.2010 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 she has already undergone a period of 28 days, and is not involved in any other criminal activity.

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

6. I have heard learned counsel for the parties and perused the record with his 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 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.

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. Moreover, learned counsel for the petitioner/appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

**CRR-2111-2010 (O&M)****7**

9. The FIR in the present case was lodged on 19.06.1998 and the petitioner has been suffering the agony of trial since the last 26 years. Since her conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per her custody certificate, she is not involved in any other case and has undergone actual sentence of 28 days out of substantive sentence of 02 years 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 the petitioner is reduced to the period already undergone by her.

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

(i) The judgment dated 29.07.2010 passed by the learned Additional Sessions Judge, Faridabad partly upholding the judgment of conviction is upheld, however, the order of sentence dated 07.03.2008 is modified to the extent that the substantive sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by her.

(ii) Fine of Rs. 3000/- imposed upon the petitioner is enhanced to Rs. 10000/-. 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.

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

May 18, 2024*Neha***(HARPREET SINGH BRAR)
JUDGE**

(i) Whether speaking/reasoned
(ii) Whether reportable

Yes/No
Yes/No