



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

CRR-2184-2010

Date of decision: 18.05.2024

Ramwati and others

....Petitioners

Versus

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. This revision has been preferred against the judgment dated 29.07.2010 passed by learned Additional Sessions Judge, Faridabad, vide which judgment of conviction dated 05.03.2008 and order of quantum of sentence dated 07.03.2008 passed by the learned Judicial Magistrate 1st Class, Faridabad in FIR No.714 dated 19.06.1998 under Sections 498-A/406/323/506 of IPC registered at Police Station Central Faridabad, has been upheld.

2. The petitioners were convicted and sentenced under Sections 498-A/406/323/506 of IPC and were ordered to undergo rigorous imprisonment for a period of 02 years and to pay fine as imposed along with default mechanism.

3. The learned Appellate Court has partly upheld the judgment of conviction dated 05.03.2008 and order of sentence dated 07.03.2008 by acquitting the accused persons under Section 406 of IPC.

4. Brief facts of the case are that marriage of the complainant with petitioner No.4-Lakhbir Singh was solemnized on 26.11.1995 in accordance

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with Hindu rites and ceremonies in the presence of family members and relatives and her parents spent sufficient amount and had given articles as mentioned in list-A, B & C but on the next date of marriage, her in-laws started harassing and humiliating her for not bringing sufficient dowry and demanding a Maruti Car. On 29.11.1995, her husband made a demand of Rs.25,000/- and her father had given Rs.22,000/- to him. Brother-in-laws of her *jeth*, namely, Satbir Singh-petitioner No.3, instigated by her in-laws for demanding dowry. Thereafter, her husband started demanding an amount for plot and photographer. On 15.11.1995, they demanded the amount of Rs.15,000/- from her parents which was paid by her father but they did not stop the cruelty towards her and her mother-in-law, namely, Ramwati-petitioner No.1, sister-in-law (*jethani*), namely, Archana-petitioner No.2 started instigated her husband-Lakhbir Singh, in result of which, he started drinking and resorted to physical violence. Thereafter, her in-laws except her father-in-law demanded dowry many times and the complainant was being given various injuries in which her miscarriage also took place. It is further alleged that on 18.03.1997, a panchayat was convened and her father-in-law admitted that his wife and sons are greedy persons and also gave assurance for not committing such type of act again. As per decision of the panchayat, 1/5th share in the land was transferred in the name of the complainant and her husband took her to matrimonial home with the assurance that they would not repeat any act again but after two days, they again started harassing her and resorted to physical violence by threatening her to kill her parents and, thus, the FIR (*supra*) got registered.

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5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 05.03.2008 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioners as petitioner-Ramwati has already undergone a period of 01 month and 11 days, petitioner-Archna has already undergone a period of 01 month 11 days, petitioner-Satbir Singh has already undergone a period of 01 month 09 days and petitioner-Lakhbir Singh has already undergone a period of 03 months and 24 days and they are not involved in any other criminal activity.

6. Per contra, learned State counsel opposes the prayer of the petitioners 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 Appellant Court and as such, they do 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

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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. Learned counsel for the petitioners has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

10. The FIR in the present case was lodged on 19.06.1998 and the petitioners have been suffering the agony of trial since the last 26 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desire to live a peaceful life. As per their custody certificates, they are not involved in any other case and have undergone the sentence as stated above.

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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 petitioners is reduced to the period already undergone by them.

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

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

(ii) The sentence of fine of an amount of Rs.5,000/-each imposed upon the petitioners by the trial Court is increased to Rs.10,000/- each. The petitioners are 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 petitioners shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

12. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

18.05.2024*Neha*

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No