



332

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2435-2010
Date of decision: 29.05.2024

PARDEEP KUMAR AND OTHERS

V/S

STATE OF PUNJAB AND OTHERS

...PETITIONERS

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jatin Salwan, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. This revision has been preferred against the judgment dated 05.08.2010 passed by learned Additional Sessions Judge, Amritsar, vide which, judgment of conviction and order of quantum of sentence dated 08.12.2008 passed by learned Judicial Magistrate Ist Class, Amritsar in FIR No.82 dated 11.03.2005 filed under Sections 498-A IPC registered at Police Station Vijay Nagar, has been upheld.
2. Learned counsel for the petitioners submits that during the pendency of the present revision petition, petitioner No.2, namely, Kewal Krishan has died. As such, proceedings against petitioner No.2 stand abated.
3. Petitioner Nos.1 and 3 were sentenced as under:

Offence	Sentence
498-A IPC	RI for 02 years with a fine of Rs.200/- each in default of which, to undergo for 07 days.

4. Briefly stated, present case was registered on the basis of written



complaint of Neelam Rani Wife of Pardeep Kumar d/o. Balwinder Kumar R/o. H.No.293, Gali No.11, New Jawahar Nagar. Batala Road, Amritsar who alleged in her said complaint that her marriage with petitioner No.1 (Pardeep Kumar) was solemnized on 2.6.1994 according to Hindu rites. Her parents spent huge amount on the marriage and gave huge dowry articles to the petitioners-accused as *Istridhan*, as per their demands. After the marriage, she and petitioner No.1 cohabited together as husband and wife but no child was born. Since the inception of the marriage, the behavior and attitude of petitioner No.1 and his family members towards her was very cruel, rude and harsh. Petitioner No.1 and his father are habitual drunkard and under the influence of liquor and the intoxicant, they always used to beat the complainant. As such, her life was made a hell by the accused/ petitioners. All the accused/petitioners only used to beat, torture the complainant and always used to taunt that no child has been born and as such she used to be called a childless woman (kalaney). The accused/petitioners used to compel the complainant to bring more dowry articles and cash from her parents and whenever she showed her inability to fulfill their illegal demand, she was beaten mercilessly by the accused/petitioners. She was also not provided with proper foods/meals and many times she was kept contained in bolted room. The accused/petitioners were not satisfied with the dowry articles given as *Istridhan* by the parents of the complainant and they always pressurized her to bring more dowry in the shape of motor cycle, washing machine and cash amounting of Rs.1 lac from her parents. On 27.8.2002, the accused/petitioners again compelled the complainant to bring cash amount and more dowry articles. Her parents were unable to fulfill the illegal demands of the accused/petitioners. The complainant was thrown out from her matrimonial



home. The matter went to the family *Panchayat* and also to *Mehila* Mandal and after compromise, she gone back to her matrimonial home. On 08.06.2004, the complainant was again thrown out from her matrimonial home by the accused/petitioners in three wearing apparels. They also threatened her with dire consequences like death and they also eliminate her and illegally retained all the articles of *Istridhan* with them. On the basis of the said complaint, case was registered, investigated, accused were arrested and challaned.

5. The petitioner Nos.1 and 3 were convicted vide judgment dated 08.12.2008 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 05.08.2010.

6. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 08.12.2008 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner Nos.1 and 3, as they have already undergone a period of about four months and are not involved in any other criminal activity.

7. Per contra, learned State counsel opposes the prayer of the petitioner Nos.1 and 3, 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.

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

9. 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.

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

11. The FIR in the present case was lodged on 11.03.2005 and the petitioners have been suffering the agony of protracted trial for more than last 19 years. Since their conviction, the petitioners have grown into a law-abiding

citizen and desires to live a peaceful life. As per their custody certificates, they are not involved in any other case and have undergone about four months out of total sentence of 02 years, in the instant case.

12. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner Nos.1 and 3 is reduced to the period already undergone by them.

13. Consequently, the present appeal is disposed of in the following terms:-

(i) The judgment dated 05.08.2010 passed by the learned Additional Sessions Judge, Amritsar affirming the judgment of conviction is upheld, however, the order of sentence dated 08.12.2008 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioner Nos.1 and 3 is reduced to the period of sentence already undergone by them.

(ii) The sentence of fine of an amount of Rs.200/- imposed upon the petitioner Nos.1 and 3 by the trial Court is increased to Rs.2500/- each. The petitioner Nos.1 and 3 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 petitioner Nos.1 and 3 shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

May 29, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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