

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

245

CRR-888-2024 (O&M)
Date of decision: 22.07.2024

KAMAL SEHGAL
Versus
....Petitioner

STATE OF PUNJAB
...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Atul Jain, Advocate
for the petitioner.

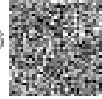
Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR. J.(Oral)

1. Present revision petition has been preferred against the judgment dated 20.04.2024 passed by learned Additional Sessions Judge, Tarn Taran, upholding the judgment of conviction and order of quantum of sentence dated 05.05.2023 passed by learned Judicial Magistrate Ist Class, Patti, in FIR No. 92 dated 28.09.2015, registered at Police Station Valtoha, Tarn Taran, vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Kamal Sehgal	498-A of Indian Penal Code	of rigorous imprisonment for 01 year	Rs. 5,000/- and in default of payment of fine, further awarded simple imprisonment for 30 days.

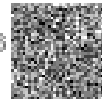
2. The case of the prosecution, in nutshell is that FIR was registered on the statement of complainant Monika Kumari, who alleged that her marriage was solemnized on 16.11.2013, with accused Kamal Sehgal according to Hindu rites



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and ceremonies. In the marriage her parents had given dowry beyond their status. After 2-3 months, her in-laws started beating her for want of more dowry. Then, her husband turned her out from the matrimonial home. Thereafter, respectable persons effected compromise between them and complainant along with her husband Kamal Sehgal started residing separately in a rented accommodation. Her husband started working at one shop and complainant used to help him at shop. But her in-laws did not mend their ways and kept on torturing her and ultimately, ousted her from the matrimonial home along with the minor child. The complainant prayed for taking legal action against the accused persons for demanding dowry, beating her and ousting her from matrimonial home. The inquiry into the allegations leveled by the complainant in her complaint was conducted by the higher police officers and on the basis of inquiry report, FIR under Section 498-A, 406, 506, 34 of IPC was registered against Kamal Sehgal, Pawan Kumar, Raman Kumar and Parveen Kumari. During investigation, accused were arrested. Statement of witnesses under Section 161 Cr.P.C were recorded. After completing the necessary requirements of investigation, challan was presented against the accused persons for the commission of offence punishable under Sections 498-A, 406, 506, 34 of IPC.

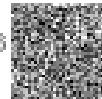
3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner, as has already undergone a period of 03 months and 03 days, and is not involved in any other criminal activity.



4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that the learned trial Court 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 Appellate Court and as such, he does not deserve any leniency.

5. I have heard learned counsel for the parties and perused the record with his able assistance.

6. 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.

7. 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 quantum of sentence.

8. The FIR in the present case was lodged on 28.09.2015 and the petitioner has been suffering the agony of trial since the last 09 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone actual sentence of 03 months and 03 days out of total sentence of 01 year in the instant case.

9. 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.

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

(i) The judgment dated 20.04.2024 passed by learned Additional Sessions Judge, Tarn Taran upholding the judgment of conviction is upheld, however, the order of sentence dated 05.05.2023 is modified to the extent that the total sentence of simple imprisonment for 01 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 5,000/- 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 li-

able to be taken into custody and made to undergo simple imprisonment for one month.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.
12. As the petitioner is in custody, he is ordered to be released in the present case, if he is not required in any other case, forthwith.

22.07.2024
amandeep

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No