

608

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1905-2011 (O & M)
Date of decision: 23.07.2024

BALWINDER SINGH AND ANOTHER

...PETITIONERS

V/S

BALJIT KAUR AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Surinder Garg, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. This revision has been preferred against the judgment dated 12.08.2011 passed by learned Additional Sessions Judge, Faridkot, vide which, judgment of conviction and order of quantum of sentence dated 25.02.2010 passed by learned Judicial Magistrate Ist Class, Faridkot in complaint bearing RT No.81 of 10.08.2009/27.07.2005, has been upheld.
2. Petitioners were sentenced as under:

Offence	Sentence
494 IPC	RI for 01 year with a fine of Rs.100/- each in default of which, to undergo for 02 days.
120-B IPC	RI for 01 year with a fine of Rs.100/- each in default of which, to undergo for 02 days.

3. Briefly stated respondent No.1/complainant-Baljit Kaur lodged the present complaint on the allegations that all the accused persons namely Balwinder Singh, Kashmir Singh (petitioners herein), Mukhtiar Kaur, Jaswinder Kaur, Sukhbir Kaur *alias* Gaggi, Paramjit Kaur *alias* Pammi, Kala



Singh, Ukri, Binder Kaur, Sat Pal, Jacheekar Singh and Baljinder Singh entered into the conspiracy and ensured second marriage of petitioner No.1- Balwinder Singh with Sukhbir Kaur, whereas Balwinder Singh (petitioner No.1) was already married with the complainant/respondent No.1.

4. The petitioners were convicted vide judgment dated 25.02.2010 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 12.08.2011.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 25.02.2010 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioners, as both of them have already undergone a period of about 20 days and 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 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. 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.

10. The complaint in the present case was filed on 27.07.2005 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 20 days out of total sentence of 01 year, in the instant case.



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 petition is disposed of in the following terms:-

(i) The judgment dated 12.08.2011 passed by the learned Additional Sessions Judge, Faridkot affirming the judgment of conviction is upheld, however, the order of sentence dated 25.02.2010 is modified to the extent that the sentence of rigorous imprisonment for 01 year 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.100/- imposed upon the petitioners by the trial Court is increased to Rs.5,000/- 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.

July 23, 2024
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(HARPREET SINGH BRAR)
JUDGE

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