

CRR-3384-2013 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3384-2013 (O&M)
Date of decision: 24.07.2024

KULWANT SINGH

...PETITIONER

V/S

SEEMA AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kapil Aggarwal, Advocate
for the petitioner.

Mr. S.K. Arora, Advocate for respondent No. 1.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 26.09.2013 passed by learned Additional Sessions Judge, Fazilka upholding the judgment of conviction and order of quantum of sentence dated 28.03.2012 passed by learned Judicial Magistrate Ist Class, Ferozepur/Camp at Jalalabad (W) in complaint case titled as “*Seema Rani Vs. Kulwant Singh*”, vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Rajinder Singh	498-A of Indian Penal Code	Rigorous imprisonment for two years	Rs. 2000/- and in default of payment of fine, further awarded rigorous imprisonment for one month.

2. The case of the complainant is that she was married with petitioner-Kulwant Singh on 07.03.2004 and at the time of marriage her parents had spent sufficient amount, gold and domestic articles to her as her

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istri dhan. After the passage of some time, petitioner along with his family members started harassing and maltreating the complainant on the pretext that her parents have given articles of inferior quality due to which honour of their family has been lowered. They also taunted her for not bringing motor cycle in the marriage and also demanded cash amount. The complainant reported the matter to her parents and her father after obtaining the loan, fulfilled their demand of cash. Thereafter, the petitioner started demanding cash of Rs.40,000/- for motor cycle. The complainant showed her inability to fulfill their above said demand, upon which petitioner gave her beatings and turned her out from the matrimonial house. The father of the complainant convened panchyat consisting of Kehar Singh, Dhuma Singh, Resham Singh and Gurvinder Singh and went to the petitioner and his family and requested them to rehabilitate the complainant, but they flatly refused to do so until their demand was not fulfilled. Then the complainant demanded her *istri dhan* back from, but the accused stated that they have converted the said dowry articles for their own use and have misappropriated the same. The matter was reported to the police, but police did not take any action. Hence, the present complaint was filed.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 26.09.2013 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 he has already undergone a period of 02 months and 17 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 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, 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 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 complaint in the present case was filed on 14.05.2004 and the petitioner has been suffering the agony of trial since the last 20 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 02 months and 17 days out of total sentence of 02 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 26.09.2013 passed by the learned Additional District Judge, Fazilka upholding the judgment of conviction is upheld, however, the order of sentence dated 28.03.2012 is modified to the extent that the total sentence of rigorous imprisonment for 02 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 2000/- imposed upon the petitioner is enhanced to Rs. 10,000/-. 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.

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

July 24, 2024

Ajay Goswami

(i) Whether speaking/reasoned

(ii) Whether reportable

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No