

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

781 CRR-1311-2015
DATE OF DECISION: 29.07.2024

Sukhchain SinghPetitioner

VERSUS

State of PunjabRespondent

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr.K.B.Raheja, Advocate,
for the petitioner.

Mr.Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J (ORAL)

1. This revision has been preferred against the judgment dated 10.02.2015 passed by the learned Additional Sessions Judge-II, Ferozepur vide which judgment of conviction and order of quantum of sentence dated 10.09.2014 passed by the learned JMIC, Ferozepur in FIR No.167 dated 07.11.2008, under Sections 498-A and 406 IPC registered at Police Station Mamdot, has been upheld. The petitioner was sentenced as under:

Offence	Sentence
Section 498-A IPC	To undergo RI for two years and to pay fine of Rs.250/- and in default of payment of fine to under RI for one month
Section 406 IPC	To undergo RI for three years and to pay fine of Rs.250/- and in default of payment of fine to under RI for one month

2. Allegations as per FIR are that on 12.08.2008, an application was moved by complainant Gurmeet Kaur daughter of Mahla Singh, resident of Lakha



Singh Wala Hithar before SSP, Ferozepur for taking action against the present petitioner alongwith other co-accused on the allegations that she was married to accused Sukhchain Singh according to customs in the month of November 2004. Her parents spent money in the marriage beyond their capacity. One double bed, four chairs etc. were given in the shape of ISTRI DHAN. After marriage, her husband Sukhchain Singh alongwith other co-accused started taunting her for bringing less dowry and started raising demand of motorcycle. By showing his inability, her father requested not to harass the complainant for alleged demand of dowry. Her father died eight months ago. The accused in connivance with each other started beating and mentally harassing the complainant and started treating her like a servant. No child was born out of this wedlock even after four years and due to this reason accused also started declaring that they will perform the second marriage of accused Sukhchain Singh. Her husband Sukhchain Singh is running a shop in Mandi Gurharsahai and he has spent whole day in the shop. In the absence of Sukhchain Singh, his younger brother Sukhwinder Singh tried to commit bad act with her and despite seeing this act by remaining three co-accused, they did not stop him rather blamed on her character. On this, her parents brought the complainant in her parental house. A panchayat visited the house of accused and Sukhwinder Singh felt sorry in the panchayat and the complainant was rehabilitated in her matrimonial house. After 15 days the accused again started beating her. Thereafter, her mother took her to her house and complainant moved an application before Women Cell Ferozepur.

3. The petitioner was convicted vide judgement dated 10.09.2014 by the learned trial Court which has also been upheld by lower Appellate Court vide judgment dated 10.02.2015.



4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 10.09.2014 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 three months and nineteen days and is not involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioner 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, he does not deserve any leniency.

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

7. 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.

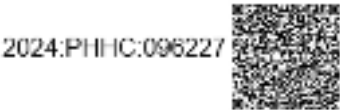
8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

9. The FIR in the present case was lodged on 07.11.2008 and the petitioner has been suffering the agony of trial since the last 16 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 three months and nineteen days out of total sentence of **three years** in the instant case.

10. 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.

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

- (i) The judgment dated 10.02.2015 passed by the learned Additional Sessions Judge, Ferozepur affirming the judgment of conviction is upheld, however, the order of sentence dated 10.09.2014 is modified to the extent that the sentence of rigorous imprisonment for three years along with de-



fault mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of Rs.250/- imposed upon the petitioner by the trial Court is increased to Rs.3,000/-. 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 rigorous imprisonment for one month.

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

29.07.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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