

CRR-15-2016 (O&M)

1

828

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-15-2016 (O&M)
Date of decision: 07.08.2024

PARKASH CHAND

...PETITIONER

V/S

REKHA AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.C. Shahpuri, 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 05.11.2015 passed by learned Additional District & Sessions Judge, Fazilka upholding the judgment of conviction and order of quantum of sentence dated 13.10.2014 passed by learned Chief Judicial Magistrate, Fazilka in case bearing complaint No. 286-I dated 10.02.2010 titled as ***Rekha Vs. Parkash Chand***, vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Parkash Chand	498-A of Indian Penal Code	Rigorous imprisonment for two years	Rs. 1500/- and in default of payment of fine, further awarded rigorous imprisonment for twenty days.

2. In nutshell, the facts of the case are that respondent No. 1/ complainant filed a complaint before the learned Trial Court under Section 323/498-A/506/504/149/342 of Indian Penal Code on the allegations that she was married with accused No.1 (petitioner herein) Parkash Chand on

**CRR-15-2016 (O&M)****2**

06.07.2007. At the time of marriage, the father of the complainant had given gold items along with other valuables to petitioner and his family. It is further alleged that after sometime of the marriage, the behaviour of the accused-petitioner became rude and he and his family members started harassing and taunting the complainant on the pretext that her parents had given articles of inferior quality and in August 2008, all the family members of petitioner along with petitioner himself gave beatings to the complainant for bringing less articles. It was said that her parents had not given car and has lowered their respect in the society and ultimately she was turned out of the matrimonial house and was asked to come back only when the demand of car is fulfilled, whereupon, father of complainant along with 2-3 persons visited the village of accused-petitioner and paid a sum of Rs.40,000/- to rehabilitate the complainant. It is further alleged that in the month of May, 2009 accused persons again gave beatings to the complainant for not bringing car and sent the complainant to Fazilka. Again in the month of June, 2009 the father of the complainant visited the house of petitioner and requested them that he is not in a position to give car and paid Rs. 30,000/- to the them, on which the complainant was again rehabilitated. Then in the month of December, 2009 all accused persons in connivance with each other gave beatings to the complainant and truned her out of the matrimonial home and threatened her to kill her if she did not fulfill the demand of car. It is further averred that the complainant narrated the entire occurrence to her father and in January, 2010 complainant alongwith her father visited the house of petitioner where father of petitioner met them and asked them to come on some other day and on 05.02.2010 her father along with Hanuman Ram went to the petitioner and all

**CRR-15-2016 (O&M)****3**

the accused persons again raised their demand of car and further threatened that if they leave the complainant here without fulfilling their demand she would be done to death. Thereafter, they asked the petitioner and other accused to return *istri dhan* of complainant to which they refused and said that they have misappropriated the same. Hence the said complaint was filed.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 13.10.2014 on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 03 month and 18 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 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

**CRR-15-2016 (O&M)****4**

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 10.02.2010 and the petitioner has been suffering the agony of trial since the last 14 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 18 days out of total sentence of 02 year in the instant case.

**CRR-15-2016 (O&M)****5**

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 05.11.2015 passed by the learned Additional District and Sessions Judge, Fazilka upholding the judgment of conviction is upheld, however, the order of sentence dated 13.10.2014 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. 1500/- 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.

August 07, 2024*Ajay Goswami***(HARPREET SINGH BRAR)
JUDGE**

(i) Whether speaking/reasoned
(ii) Whether reportable

Yes/No
Yes/No