

CRR-3475-2015(O&M)

DATE OF DECISION: 29.07.2024

Malook Singh and another

.....Petitioners

VERSUS

State of Punjab

.....Respondent

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present

Mr.SPS Sidhu, Advocate,
for the petitioners.

Mr.Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J (ORAL)

1. This revision has been preferred against the judgment dated 02.09.2015 passed by learned Additional Sessions Judge, Fazilka vide which judgment of conviction and order of quantum of sentence dated 23.08.2014 passed by learned CJM, Fazilka in FIR No.133 dated 28.09.2010 filed under Sections 447 and 34 IPC registered at Police Station City Fazilka has been upheld. The petitioners were sentenced as under:

Offence	Sentence
Section 354 read with Section 34 IPC	To undergo RI for one year and to pay fine of Rs.5,000/- and in default of payment of fine to undergo RI for 30 days
Section 406 read with Section 34 IPC	To undergo RI for one year and to pay fine of Rs.5,000/- and in default of payment of fine to undergo RI for 30 days

2. Allegations as per FIR are that the present FIR was registered on the complaint moved by complainant Harjit Kaur @ Jasprit Kaur, moved to SSP Ferozepur for taking action against Malook Singh son of Saudagar Singh,



Balwinder Singh son of Malook Singh and Sukhchain Kaur wife of Malook Singh. It was submitted in the complaint that complainant is a widow of Palwinder Singh son of Malook Singh Singh (daughter of Sukhjot Singh), now resident of Tarkhan Wala, Tehsil Malout, District Muktsar. The marriage of the complainant with Palwinder Singh was solemnized in the year 2004 and out of this wedlock, one daughter Avneet Kaur was born in the year 2005. Palwinder Singh husband of complainant, suddenly died on 02.10.2008. One car Mark Zen bearing registration no.PB-22B-0151, Tractor Mark Sonalika bearing registration No. PB-22A-8071 and one non prohibited Gun was registered in the name of husband of complainant. Besides that, husband of complainant owned land measuring seven and half acres and the mutation of inheritance in this regard, has been sanctioned in favour of the complainant, her daughter and mother-in-law of complainant but neither any share of produce of above said land, nor the possession of above said land was given to the complainant. Besides that, the complainant was not given her due share in the residential house. The dowry articles i.e two almirah, one tin box etc. and gold ornaments which were given by the parents of the complainant in marriage, have not been returned to the complainant. At the time of marriage gold ornaments were entrusted to the family members of in-laws of complainant as ISTRIDHAN of complainant. The complainant alongwith her daughter was turned out from the matrimonial house in three wearing apparels and the accused did not allow the complainant to take her dowry articles. After the death of husband of complainant, Balwinder Singh brother in law of complainant and Malook Singh father-in-law of complainant used to do obscene acts with the complainant and kept an evil eye on the complainant and they threatened to kill the complainant and her daughter. Father of the complainant along with respectable persons went to in-laws house of com-



plainant but they did not listen to them. The in-laws of the complainant did not return dowry articles to complainant and they did not give the due share of land to the complainant. Father-in-law of complainant is having 52 acres of land, besides 7 electric motors installed in the fields, one residential house, 3 plots at Fazilka, one Gypsy, one International tractor along with trolley, Rotivator and other instrument of agriculture. It was prayed that action be taken against the accused.

3. The petitioners were convicted vide judgement dated 23.08.2014 by the learned trial Court which has also been upheld by lower appellate court vide judgment dated 02.09.2015.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 02.09.2015 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 have already undergone a period of one month and seven days by petitioner no.1 and one month and twenty eight days by petitioner no.2 and are not involved in any other criminal activity.

5. 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.

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 petitioners 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 28.09.2010 and the petitioners have been suffering the agony of trial since the last about 14 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desire to live a peaceful life. As per their custody certificate, they are not involved in any other case and have undergone actual sentence of one month and seven days by



petitioner no.1 and one month and twenty eight days by petitioner no.2 out of total sentence of one year 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 petitioners is reduced to the period already undergone by them.

11. Consequently, the present petition is disposed of in the following terms:-
- (i) The judgment dated 02.09.2015 passed by learned Additional Sessions Judge, Fazilka affirming the judgment of conviction is upheld, however, the order of sentence dated 23.08.2014 is modified to the extent that the sentence of rigorous imprisonment for one 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.5,000/- each imposed upon the petitioners by the learned trial Court is enhanced to Rs.10,000/- 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.

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

29.07.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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