



3. Briefly stated, complainant-Smt. Savita married with the petitioner/accused-Harjinder on 08.03.2000 according to Sikh rites and ceremonies at Sirsa. Her family members spent Rs.6.00 lacs in the marriage and dowry articles were given to her and were entrusted to the petitioner. A scooter was also given. But after few days of marriage, petitioner started beating her and used to make demand of a car. Two children were born out of the marriage. Her husband (petitioner) was an addict and also used to beat her and her children due to addiction. She came to know that her husband (petitioner) was having illicit relations with another lady, which was also one of the reasons for causing cruelty to her. The said lady had also given threatening that she would remain with petitioner-Harjinder and further asked her to leave the matrimonial home, otherwise serious consequences would have to be met. Her husband (petitioner) was also having a gun and he pointed out it at her and asked her to leave the matrimonial home, otherwise she would be killed. It was further alleged that her mother-in-law, namely, Asha Rani and her husband Harjinder Singh (petitioner) also put her on fire, due to which, her suit was burnt, but she did not receive any injury per chance. She was working in the office of ADC. It was further alleged that after consuming liquor, petitioner used to visit her office and used to give abuses and insult her in the presence of staff. She had been thrown away from the matrimonial home several times. Several *panchayats* were convened, but result-less. She made a complaint to the office of Superintendent of Police, where petitioner and other accused also confessed their guilt and gave assurance that she and her husband (petitioner) would be given their shares in the property. She had been thrown away from the matrimonial home and when *panchayat* was convened on 3.10.2010, they refused to bother it. Hence, FIR (supra) was registered against



the accused/petitioner.

4. The petitioner was convicted and sentenced vide judgment dated 05.02.2015 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 07.09.2015.

5. Learned counsel for the petitioner contends that she is not assailing the impugned judgment of conviction dated 05.02.2015 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. Petitioner has undergone a total period of 02 months and 20 days, including remission and is not involved in any other case.

6. *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 Appellate 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 petitioner has not assailed the judgment of conviction on merits, rather she has restricted her prayer only qua modification of quantum of sentence.

10. The FIR in the present case was lodged on 21.10.2010 and the petitioner has been suffering the agony of protracted trial for last 14 years. Since his conviction, the petitioner has grown into law-abiding citizen and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 02 months and 20 days, including remission out of total sentence of one and half years, 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 petitioner is reduced to the



period already undergone by him.

12. Consequently, the present petition is disposed of in the following terms:-

- (i) The judgment dated 07.09.2015 passed by the learned Additional Sessions Judge, Sirsa, affirming the judgment of conviction is upheld, however, the order of sentence dated 05.02.2015 is modified to the extent that the sentence of rigorous imprisonment for one and half years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.10,000/- upon the petitioner.
- (ii) 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.

December 10, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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