

840

CRR-2416-2016(O&M)
DATE OF DECISION: 31.07.2024

Amarjit Kaur and another

.....Petitioners

VERSUS

State of Punjab and another

.....Respondents

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present

Mr.Sherry K. Singla, Advocate,
for the petitioners.

Mr.Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J (ORAL)

1. This revision has been preferred against the judgment dated 01.06.2016 passed by Additional Sessions Judge, Sangrur vide which judgment of conviction and order of quantum of sentence dated 05.11.2014 passed by learned SDJM, Sunam in Complaint No.36 dated 03.08.2009, filed under Sections 458/354/323/506/148/341/120-B and 149 of the IPC has been upheld. The petitioners were sentenced as under:

Offence	Sentence
Sections 120-B	To undergo RI for 2 years and to pay fine of Rs.250/- and in default of payment of fine to further undergo RI for two months
Section 148 IPC	To undergo RI for six months only
Section 458 IPC	To undergo RI for 2 years and to pay fine of Rs.250/- and in default of payment of fine to further under RI for two months
Section 341 IPC	To undergo SI for 15 days only
Section 323 IPC	To undergo RI for six months only
Section 506 IPC	To undergo rigorous imprisonment for six months only.

All the sentences were ordered to run concurrently.



2. Allegations as per complaint are that the complainant had filed a civil suit for permanent injunction against Brahamgir for restraining him not to dispossess her from her rented accommodation and in the said suit, Brahamgir and Angrej Singh had appeared in the Court through counsel and a statement was made on 07.12.2005 by them that they would not dispossess the complainant and accordingly the suit was dismissed as withdrawn and the Court at Sunam had passed an order on 24.12.2005 to the effect that the defendants would remain bound by their statement in the Court. Thereafter, Brahamgir filed an eviction application no.1 of 2006 for eviction of the complainant on the ground of subletting and personal necessity etc. but the learned Rent Controller, Sunam dismissed the said eviction application by holding that the complainant had been in possession as tenant in the house in dispute for last about 9/10 years. Since no appeal was preferred against the said order of dismissal of the eviction application and thereby the orders passed by the Courts had become final. Thereafter on 10.05.2008, at about, 07:00 pm, complainant was present at her home (rented accommodation) with her daughter Mohini when Angrej Singh, Bhinda Singh, Bhola Singh and two-three other persons armed with deadly weapons such as sword, *sabhal* (iron rod) and hammer reached there. Accused Angrej Singh forcibly entered the portion in possession of the complainant by scaling the wall and started thrashing upon her. Then accused Bhinda Singh also forcibly entered the complainant's house and caught her daughter from her arms and thereafter the accused named above started demolishing the wall of the house in possession of the complainant. Then Jeet Kaur w/o Angrej Singh and Amarjit Kaur w/o Bhinda Singh and other persons forcibly entered the house in possession of the complainant and they started giving beatings to complainant's daughter Mohini and caused injuries to her.



Angrej Singh tore her daughter Mohini's shirt with the intention to outrage her modesty and accused Bhinda Singh also tried to remove her *salwar*. All the accused named above inflicted injuries to complainant's daughter. Thereafter, they broke open the lock of iron box and stole an amount of Rs.4,500/- lying therein. When people gathered at the spot, all the above named culprits fled away from there with their respective weapons and they took away gas cylinder and iron bed etc. belonging to the complainant with them with the intent to dispossess her from the portion in her possession and earlier also such attempts were made. On this, initially an FIR was registered but thereafter, the cancellation report was presented in the Court. The trial Court, vide order dated 03.08.2009, rejected the cancellation report presented by the police and at request of the complainant, treated the same as protest petition and directed the present case to be registered as a complaint case.

3. The petitioners were convicted vide judgement dated 05.11.2014 by the learned trial Court which has also been upheld by lower Appellate Court vide judgment dated 01.06.2016.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 01.06.2016 on merits and restricts his prayer to modification of the order of quantum of sentence to that of one already undergone by the petitioners as they have already undergone a period of three months and eleven days each 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 complaint in the present case was lodged on 02.06.2008 and the petitioners have been suffering the agony of trial since the last 16 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desires to live a peaceful life. As per their custody certificate, they are not involved in any other case and have undergone actual sentence of three months and eleven days each out of total sentence of two 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 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 01.06.2016 passed by the learned Additional Sessions Judge, Sangrur affirming the judgment of conviction is upheld, however, the order of sentence dated 05.11.2014 is modified to the extent that the sentence of rigorous imprisonment for two years 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.250/- imposed upon the petitioners by the trial Court is increased to Rs.1,000/-. 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.

31.07.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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