



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

842 CRR-2629-2016(O&M)
DATE OF DECISION: 31.07.2024

Amit Kumar and othersPetitioners

VERSUS

State of Haryana and anotherRespondents

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr. B.S.Rana, Sr. Advocate with
Mr.Rahul Dahiya, Advocate,
for the petitioners.

Mr.Vikas Bhardwaj, AAG, Haryana.

Mr. Anuj Malik, Advocate, for respondent no.2.

HARPREET SINGH BRAR, J (ORAL)

1. This revision has been preferred against the judgment dated 13.07.2016 passed by learned Additional Sessions Judge, Rohtak vide which judgment of conviction and order of quantum of sentence dated 12/15.02.2013 passed by learned JMIC, Rohtak in FIR No.571 dated 21.10.2005 filed under Sections 498-A, 406 / 34 IPC registered at Police Station Civil Lines, Rohtak has been upheld. The petitioners were sentenced as under:

Name of the petitioner	Offence	Sentence
Amit, Rajender and Savitri	498-A IPC	RI for two years and to pay fine of Rs.5,000/- and in default of payment of fine to further undergo another imprisonment for one month each
Amit and Rajender	406 IPC	RI for two years and to pay fine of Rs.5,000/- and in default of payment of fine to further undergo another imprisonment for one month each

All the sentences were ordered to run concurrently.

2. Allegations as per FIR are that prosecution in the case was launched on the complaint of Kavita @ Rinki d/o Master Satbir Singh, r/o Sanghi at present



H.No. 520, Sector 14, Rohtak to the effect that her marriage was solemnized with accused Amit Kumar Saroha s/o Rajender Kumar Saroha on 25.05.2003 according to Hindu Rites and Ceremonies. In the marriage, her father had spent sufficient amount and gifted many articles before, during and after marriage but accused and his family members were not satisfied with the same. In the marriage the accused demanded Maruti 800, however, the father of the complainant gave Santro Car to satisfy the demand of the accused. At the time of marriage, the accused demanded Rs.2,00,000/-, however, the father, the complainant gave Rs.1,00,000/- to the accused Rajender by arranging Rs.60,000/- from his own and Rs.40,000/- from Richhpal Singh Sarpanch of village Sanghi, Ex-Sarpanch of village Bhalout, Deepak s/o Jogi Ram and Jasbir Singh Ahlawat. In the matrimonial home, the accused started ill treating the complainant and used to torture her physically and mentally due to bringing less dowry. Further, she stated that in October, 2003, the accused Amit along with his family members demanded Rs.10,00,000/-. On 18.10.2003, the accused Amit left the complainant in her parental home with the condition that he would take her back when she would arrange Rs.10,00,000/-. Further she stated that the accused left her at her parental home alongwith her car bearing No. HR-12F-1210. However, next day the accused Amit had taken the car and not returned and further, used the car badly. Further, she stated that she went to her matrimonial home many times to have the car but the accused refused to return the same. On 18.09.2005, the complainant along with her father and other members of Panchayat went to her matrimonial home for the conciliation and compromise between the parties. However, the accused and his family members turned all of them out of her matrimonial home without listening and compromising with the complainant.

On the basis of this complaint, FIR was registered against the accused.



3. The petitioner were convicted vide judgement dated 12/15.02.2013 by the learned trial Court which has also been upheld by lower Appellate Court vide judgment dated 13.07.2016.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 12.02.2013 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by all the petitioners as have already undergone a period of three months and sixteen 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 excess-



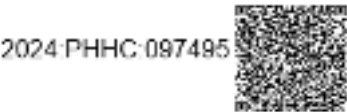
ively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. State of AP AIR 2017 SC 1166**, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage 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 21.10.2005 and the petitioners have been suffering the agony of trial since the last around 20 years. Since their conviction, the petitioners have grown into law-abiding citizens 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 three months and sixteen days 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 13.07.2016 passed by the learned Additional Sessions Judge affirming the judgment of conviction is upheld, however, the order of sentence dated 15.02.2013 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.5,000/- imposed upon the petitioners by the trial Court is increased to Rs.10,000/-. 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