

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3783-2015(O&M)
DATE OF DECISION: 29.07.2024

Raj Kumar and anotherPetitioners

VERSUS

State of Haryana and othersRespondents

CORAM HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr.Sahil Kumar, Advocate,
for Mr. Ram Avtar Sheoran, Advocate,
for the petitioners.

Mr.Vikas Bhardwaj, AAG, Haryana.

Mr. Sumit Sangwan, Advocate,
for respondents no.2 and 3.

HARPREET SINGH BRAR, J (ORAL)

1. This revision has been preferred against the judgment dated 07.08.2015 passed by Additional Sessions Judge, Bhiwani vide which judgment of acquittal dated 15.12.2014 passed by JMIC, Charkhi Dadri in FIR No.107 dated 17.04.2014, under Sections 498-A, 323, 406, 506 read with Section 34 IPC registered at Police Station Badhra has been set aside by accepting the appeal preferred by the complainants. The petitioners were held guilty and sentenced as under:

Offence	Sentence
Section 498-A IPC read with Section 34 IPC	RI for two years and fine of Rs.1,000/- and in default of payment of fine to undergo SI for one month.
Section 323 IPC read with Section 34 IPC	RI for one year and -
Section 406 IPC read with Section 34 IPC	RI for one year and -
Section 506 IPC read with Section 34 IPC	RI for one year and -



All the substantive sentences were ordered to run concurrently. Fine not paid.

2. Allegations as per FIR are that complainant made a complaint Ex.PW1/A to the SHO, PS Behal to the effect that the marriage of her daughter Meena was solemnized with accused Raj Kumar on 17.05.2010 as per Hindu Rites and ceremonies. Sufficient dowry was given in the marriage by them beyond their capacity, but the accused persons being greedy persons, after the marriage started demanding more dowry and started harassing and humiliating her daughter Meena. They demanded motorcycle and Rs.1,00,000/- in cash from her daughter Meena. She disclosed this fact to her father, who tried to make her understand. After staying at her matrimonial home for about three months when she came to her parental house, she was asked to bring Rs.1,00,000/- in cash and motor cycle and in case of failure she was threatened to be killed. It was further averred that after one month of her stay at her parental home, her husband Raj Kumar came to bring her and asked to give Rs.50,000/- otherwise he would not take her to her matrimonial home. On this, she arranged Rs.30,000/- and give to accused Raj Kumar and thereafter he took her to her matrimonial home. But after this she was also given beatings for not fulfilling the demand and ultimately on 30.12.2012 after giving beatings she was ousted from the matrimonial home. It was also averred that accused persons also tried to kill her daughter Meena. The accused persons are drunkard and gamblers and to fulfill their lust of gambling they have also sold the valuable dowry. The complainant prayed for taking legal action against the respondent-accused.

3. The petitioners were acquitted of the charges levelled against them vide judgement dated 15.12.2014 by the learned trial Court which has been set aside by lower appellate court vide judgment dated 07.08.2015.



4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 07.08.2015 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 five months and three days and are not involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioners as the learned lower Appellant Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record 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 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 Appellate 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 17.04.2014 and the petitioners have been suffering the agony of trial since the last around 10 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 of five months and three 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 revision is disposed of in the following terms:-

- (i) The judgment dated 07.08.2015 passed by the learned Additional Sessions Judge, Bhiwani setting aside the judgment of acquittal is upheld, however, the order of sentence dated 07.08.2015 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.1,000/- imposed upon the petitioners by the learned Appellate 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.

29.07.2024	(HARPREET SINGH BRAR)
mamta	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No