

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Pronounced on: 22.10.2024

...Petitioner

versus

...Respondent

Present: Ms. Harleen Kaur, *Amicus Curiae*
on behalf of the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J.

1. This revision has been preferred against the judgment dated 28.09.2015 passed by learned Additional Sessions Judge, Sirsa, vide which, judgment of conviction and order of sentence dated 04.08.2014 passed by the learned Sub Divisional Judicial Magistrate, Dabwali, in case stemming from FIR No. 147 dated 22.08.2009 registered under Sections 498-A and 406 IPC at Police Station City Dabwali, has been modified to the extent that the petitioner has been acquitted from charge under Section 406 IPC while judgment of conviction and order of sentence qua offence under Section 498-A IPC have been upheld. Accordingly, the petitioner was ordered to serve the following sentence:

Offence	Sentence
Section 498-A IPC	Rigorous imprisonment for a period of 3 years and a fine of Rs. 5,000/- in default of which simple imprisonment of 1 month.



2. The case set up by the prosecution is that the marriage between the petitioner and complainant-Salochana was solemnized on 04.11.2003 and one male child and one female child were born out of this wedlock. The complainant was harassed for demand of dowry and often shunned out of the matrimonial home. In December, 2005, the father and uncle of the petitioner came to the paternal home of complainant and brought her back to her matrimonial home. However, soon after, the petitioner and his mother started demanding Rs.30,000/- and a refrigerator from complainant. She informed her brother of the same who brought her back to her paternal home. Subsequently, a *panchayat* was convened in June, 2007, wherein the petitioner and his family demanded a refrigerator and Rs.30,000/- to welcome complainant back to her matrimonial home. However, the complainant returned to her matrimonial home due to intervention of the *panchayat*, but again, in May, 2008, she was beaten by the petitioner and his family and her brother brought her back to his house. The petitioner and his family were requested several times to let the complainant reside in her matrimonial home but they declined and threatened to kill her.

3. The complainant got the FIR(supra) registered after moving an application under Section 156(3) Cr.P.C. before the concerned Magistrate. On assessing all the material available on the record, the petitioner was convicted vide judgment dated 04.08.2014 by the learned trial Court. Aggrieved by the same, the petitioner preferred an appeal which was partly allowed by the learned lower Appellate Court vide judgment dated 28.09.2015 by acquitting the petitioner under Section 498-A IPC. The petitioner moved this Court in revision and his sentence was suspended during the pendency of the same vide order dated 12.07.2016.



4. Learned *amicus curiae* on behalf of the petitioner inter alia contended that the prosecution has failed to examine relevant witnesses to prove its case. One Babu Ram, who allegedly attended the panchayats, was cited as a prosecution witness but was given up by the learned Public Prosecutor. Moreover, the complainant has failed to mention the dates qua the alleged incidents of harassment as well as the convening of the *panchayats*. Also, neither any medical evidence is available on the record to prove that complainant was beaten by the petitioner nor was any independent witness joined in the investigation.

5. *Per contra*, learned State counsel opposes the prayer of petitioner as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the same has also been upheld by the learned lower Appellate Court. As such, the petitioner does not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner was acquitted from the charge under Section 406 IPC by the learned lower Appellate Court while the conviction under Section 498-A was upheld. According to the custody certificate presented by the learned State counsel, the petitioner has already undergone 1 year and 10 days, including remission, out of the total sentence of 3 years.

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 vs. 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 judgments rendered by the learned lower Appellate Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR (*supra*) in the present case was lodged on 22.08.2009 and petitioner has been suffering the agony of protracted trial for the last 15 years. In view of the same as well as the fact that he has undergone total custody of 1 year and 10 days out of the sentence of 03 years, this Court is of the considered view that the petitioner deserves an opportunity to reinvent himself as a law-abiding citizen.

9. Accordingly, this Court is of the opinion that ends of justice will be met if the sentence imposed upon him is reduced to the period already



undergone by him.

10. Consequently, the present revision petition is disposed of in the
aforementioned terms:

- (i) The judgment dated 28.09.2015 passed by learned Additional Sessions Judge, Sirsa is upheld. However, the order of sentence dated 04.08.2014 (as modified by the learned lower Appellate Court) is modified to the extent that the sentence of rigorous imprisonment for 3 years for offence under Section 498-A IPC along with default mechanism awarded to the appellant/petitioner is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs. 5,000/- imposed upon the petitioner by the learned trial Court is increased to Rs. 10,000/-. 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.

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

12. High Court Legal Services Committee is directed to pay
remuneration to Amicus Curiae as per Rules.

Reserved on : 18.10.2024
Pronounced on : 22.10.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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