

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-291-2016 (O&M)
Date of decision: 10.04.2024

Baljinder Singh

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Surinder Garg, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. N.S. Chahal, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

Mr. Surinder Garg, Advocate puts in appearance on behalf of the petitioner and files his *vakalatnama* along with ‘no objection’ from the counsel earlier representing the petitioner and the same is taken on record.

1. This revision has been preferred against the judgment dated 06.01.2016 passed by the learned Additional Sessions Judge, Faridkot, vide which judgment of conviction and order of quantum of sentence dated 07.05.2015 passed by the learned Additional Chief Judicial Magistrate, Faridkot in complaint case No.41/22.04.2010/08.08.2012 filed under Sections 406/498-A of IPC has been upheld. The petitioner was sentenced as under:

Offence	Sentence
Section 498-A of IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo simple imprisonment for one month.

2. Brief facts of the case are that the marriage of the complainant with the accused/petitioner-Baljinder Singh was took place on 28.03.2004 according to Anand Karaj at Shehanshah Palace, Kotkapura. Out of this wedlock, one

male child was born. It is further alleged that the accused had demanded dowry from the parents of the complainant and the parents of the complainant according to their means and the accused's demands, spent Rs.14 lakh. However, a dispute arose within the marriage, leading to the filing of a complaint alleging harassment of respondent No.2 for dowry. It is claimed that the dowry items and personal belongings of respondent No.2 remained with the accused. It is further alleged that only after two months of marriage, the petitioner/accused's family members began pressuring the complainant, demanding Rs. 8 lakh. Initially, she remained silent, hoping for improvement over time, but the behavior of the accused persisted. Subsequently, she lodged a complaint with the police, followed by attempts at resolution through village panchayats. Despite these efforts, the accused and his family members continued to abuse the complainant, denying her food and preventing her from contacting her family. Resultantly, the complainant filed an application to the police station, thereafter, *panchayat* of both the villages got the matter compromised. Even after 18.06.2008, accused and his family members to get fulfilled their dowry demand, started beating the complainant and did not provide her food and did not allow her to meet her family members. Further, accused and his family members used to tell the father of the complainant that if they will not accept their demand, they will treat the complainant as maid. On 24.12.2009, all the accused kept the complainant confined and her parents came to know about the same, they with the help of police brought the complainant and her son to Panj Grahin from house of accused. Thereafter, complainant's family put efforts to resolve the dispute but the accused and his family members refused to rehabilitate the complainant in spite of Panchayat interventions.

3. The petitioner was convicted vide judgment dated 07.05.2015 by the learned trial Court which has also been upheld by lower Appellate Court vide judgment dated 06.01.2016.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 07.05.2015 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner as he has already undergone a period of 04 months 26 days and is not involved in any other criminal activity.

5. 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, he does 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 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 petitioner 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 22.04.2010/08.08.2012 and the petitioner has been suffering the agony of trial since the last 09 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone actual sentence of 04 months & 26 days out of total sentence of 02 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 petitioner is reduced to the period already undergone by him.

11. Consequently, the present appeal is disposed of in the following terms:-

(i) The judgment dated 06.01.2016 passed by the learned Additional Sessions Judge, Faridkot, affirming the judgment of conviction is upheld, however, the order of sentence dated 07.05.2015 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of 5,000/- imposed upon the petitioner by the trial Court is increased to 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.

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

(HARPREET SINGH BRAR)
JUDGE

10.04.2024
Neha

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