



were given to her in-laws at that time. However, after some time, in-laws of complainant started torturing, gave beatings and threatening her on account of demand of dowry. Out of wedlock, one girl child was born and after some time, she was turned out of matrimonial home and furthermore, in-laws of the complainant never came back to take her or the child. Hence the complaint.

4. The petitioners were convicted vide judgment dated 04.01.2014/06.01.2014 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 17.12.2015.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction and order of sentence dated 04.01.2014/06.01.2014 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. Petitioner No.1 has undergone a period of 02 months and petitioner No.2 has undergone a period of 02 months and 17 days and they are not involved in any other criminal activity.

6. 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 Appellate Court and as such, they do not deserve any leniency.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. 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.

9. 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. Moreover, 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.

10. The FIR in the present case was lodged on 27.03.2008 and the petitioners have been suffering the agony of protracted trial for more than last 16 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 total sentence of 02 months and 02 months, 17 days respectively, out of total sentence of 02 years, in the instant case.

11. 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.

12. Consequently, the present petition is disposed of in the following terms:-

(i) The judgment dated 17.12.2015 passed by the learned Additional Sessions Judge, Bhiwani, affirming the judgment of conviction is upheld, however, the order of sentence dated 06.01.2014 is modified to the extent that the sentence of rigorous imprisonment for 02 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.7,000 imposed upon petitioner No.1 and Rs.5,000/- upon petitioner No.2 by the trial Court is increased to Rs.15,000/- and Rs.10,000/- respectively. 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.

(HARPREET SINGH BRAR)
JUDGE

July 30, 2024
manisha

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