

**CRR-4786-2016 (O&M)****1****862 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-4786-2016 (O&M)
Date of Decision: 19.11.2024****HARISH****.....Petitioner****Versus****STATE OF HARYANA AND ANOTHER****.....Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Tejpal Dhull, Advocate
for the petitioner.****Mr. Vikas Bhardwaj, AAG Haryana.************HARPREET SINGH BRAR, J. (ORAL)**

1. Present revision petition has been preferred by the petitioner against the judgment dated 08.12.2016 passed by learned Additional Sessions Judge, Panipat vide which judgment of conviction and order on quantum of sentence dated 06.08.2014/26.08.2014 passed by learned Judicial Magistrate Ist Class, Panipat, have been upheld, vide which petitioner was convicted under Section 498-A of Indian Penal Code and sentenced to undergo rigorous imprisonment for one year and fine of Rs. 2,500/- with default mechanism.

2. Brief facts of the case are that complainant made a complaint on the allegations that she got married to accused-petitioner Harish on 20.06.2005. It was further alleged that after 2-3 days of marriage accused persons started harassing the complainant on account of demand of dowry. The complainant was also given beatings by the petitioner and his family members in connections with said demands. She was turned out from the matrimonial home after giving beatings by her husband and sister-in-law and accused on 17.07.2005

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asked either to bring motor-cycle or color T.V otherwise they will not allow her to stay with them. The complainant lived at her paternal house up to 29.08.2005 and father of the complainant arranged Rs. 10,000/- and handed over the same to accused persons and left the complainant in her matrimonial home. Even thereafter, the behaviour of the accused persons did not change. The complainant was again given beatings for dowry demands and was turned out from matrimonial home on 19.09.2005. Father of the complainant was also abused and disrespected by the accused persons, when he went there to bring back his daughter. On the basis of this complaint, the present FIR was registered.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 08.12.2016 passed by learned Additional Sessions Judge, Panipat on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 03 months and 16 days and not involved in any other case.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that 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. However, he could not controvert the fact that petitioner is not involved in any other case.



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

6. 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.

7. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and submits that



the said judgment is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only quantum of sentence.

8. Perusal of record indicates that FIR(supra) was registered in the year 2005 and the petitioner has been suffering the agony of trial since the last 19 years. As per the custody certificate, the petitioner has undergone total sentence of 03 months and 16 days out of total sentence of one year and he is not involved in any other case.

9. 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.

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

(i) The judgment dated 08.12.2016 passed by the learned Additional Sessions Judge, Panipat upholding the judgment of conviction is upheld, however, the order of sentence dated 26.08.2014 is modified to the extent that the total sentence of rigorous imprisonment for one year awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 2500/- imposed upon the petitioner is enhanced 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 simple imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

19.11.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No