



882 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2586-2017 (O&M)
Date of decision: 27.11.2024

BHARPOOR SINGH

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Shivaly Singla, *amicus curiae*
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred by the petitioner against the judgment dated 19.07.2017 passed by learned Additional Sessions Judge, Rohtak upholding the judgment and order on quantum of sentence dated 11.03.2015 passed by learned Judicial Magistrate Ist Class, Rohtak vide which petitioner has been convicted under Section 494 of Indian Penal Code and sentenced to undergo simple imprisonment for two years along with fine of Rs. 3,000/- with default mechanism in criminal complaint bearing No. 120/1 of 2009/2010.

2. The brief facts of the present complaint are that complainant is legally wedded wife of petitioner-accused. The complainant lived with him as his wife and out of the wedlock, five children were born. It was alleged that petitioner treated the complainant with cruelty and used to give her merciless beating for petty matters. On 29.03.2008, petitioner again got married with one Shakuntala according to Hindu rites and rituals in the presence of many witnesses and complainant was turned out from her matrimonial home.

Complainant resided at Ambala Cantt. with her daughter and now residing at



Durga Colony, Rohtak. It has further been alleged that petitioner and Shakuntala have committed the offence of bigamy under Section 494 of IPC with common intention and Attar Singh and Hari Ram had full knowledge of earlier marriage of the petitioner with complainant still petitioner and said Shakuntala performed the second marriage. Hence, the said complaint.

3. On assessing all the material available on the record, the petitioner was convicted vide judgment dated 11.03.2015 by learned JMIC, Rohtak. Aggrieved by the same, the petitioner preferred an appeal, which was dismissed by learned lower Appellate Court vide judgment dated 19.07.2017.

4. Learned counsel (*amicus curiae*) *inter alia* contends that no evidence to the effect that petitioner has solemnized second marriage, has been led on the file and once no such evidence is existing on the file, the prosecution cannot take advantage of the weakness of defence. Thus the main ingredients of Section 494 of IPC are not made out. Thus, the findings returned by learned Courts below are liable to be set aside. He further submits that the petitioner has already undergone custody of 02 months and 02 days and is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of petitioner as the learned JMIC, Rohtak 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 merit 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 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 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.

9. The complaint in the present case was filed on 14.10.2009 and petitioner has been suffering the agony of protracted trial for more than last 15 years. Since his conviction, petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he has undergone



actual sentence of 02 months and 02 days out of simple imprisonment of two years awarded to him, 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 petitioner is reduced to the period already undergone by him.

11. Consequently, the present revision petition is disposed of in the following terms:

(i) The judgment dated 19.07.2017 passed by learned Additional Sessions Judge, Rohtak affirming the judgment of conviction dated 11.03.2015 passed by learned JMIC, Bhiwani is upheld, however, the order of sentence dated 11.03.2015 is modified to the extent that simple imprisonment for 02 years awarded to the petitioner is reduced to the period of sentence already undergone by him and a fine of Rs. 3,000/- is enhanced to Rs. 10,000/-.

(ii) 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 15 days. Amount of fine already paid by the petitioner shall be adjusted at the time of final payment of fine.

12. High Court Legal Services Committee is directed to pay remuneration to *amicus curiae* as per rules.

November 27, 2024

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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