



Offence	Sentence
498-A IPC	RI for 02 years with a fine of Rs.1000/- each in default of which, to undergo for 15 days.
323 IPC	SI for 03 months with a fine of Rs.500/- each in default of which, to undergo for 15 days.
406 IPC	SI for 06 months and fine of Rs.500/- each in default of which, to undergo for 15 days.

3. Briefly stated, complaint in the present case was lodged by prosecutrix Anita, wherein, she stated that she got married to Yogesh Bansal on 25.04.2004, according to Hindu Rites and Ceremonies. She claimed that though her father spent more than his status on marriage but her in-laws were not happy with the dowry given in the marriage. After marriage they started to demand Rs.2 lacs as dowry. When complainant showed her inability to bring Rs.2 lacs from her parents her in-laws started to harass her and torture her physically and mentally. A *panchayat* was held and father of complainant gave Rs.50,000/- to the in-laws of the complainant but they kept on harassing and abusing and beating the complainant. Complainant alleged that because of injuries suffered by her, she suffered abortion when she was seven months pregnant. She got registered a complaint bearing FIR No.269 dated 14.05.2005 under Section 498A, 323, 406, 506 IPC in Ballabgarh, but subsequently, a compromise was arrived and her in-laws assured her parents before the respectable and reputed people of society that they will not behave badly with the complainant. On their assurance, complainant arrived in her matrimonial house. Conduct of husband remained satisfactory for a few days but after a few days, they started demanding money and behaving badly with her. Complainant kept on suffering the maltreatment silently and gave birth to a



daughter in the year 2006. However, her in-laws kept on demanding Rs.2 lacs and committing cruelty upon her. On 20.02.2009, her husband beat her blue and then on 23.02 2009, her husband ran away with a young girl namely Jaismin daughter of Umesh. On 21.03.2009, her father-in-law, mother-in-law, brother-in-law and sister-in-law assaulted her and hurt and tortured her and stated that if her father had fulfilled demand of Rs.2 lacs then her husband would not have eloped with Jaismin. Thereafter, accused pressurized her to live with her husband and Jaismin in the same house. When she protested, she was threatened with live and thrown out of her matrimonial house in three clothes she was wearing. This happened on 22.03.2009. Her parents called the in-laws and tried to talk some sense but they did not agree and stated that when their son has run away should they keep the complainant in the house. Present complaint was made on 23.03.2009. On the same day, FIR was registered under Sections 498A, 323,406,506 IPC. Complaint was accompanied with list of dowry articles. On 23.03.2009 itself, medical examination of complainant was conducted. Accused Siyaram (petitioner), Yogesh Bansal and Omwati (petitioner) were arrested and their disclosure statement was recorded. On the basis of disclosure statement, dowry articles were recovered and jewellery of the complainant was also recovered. Statement of witnesses under Section 161 Cr.P.C. recorded and after completion of usual formalities of investigation finally a challan under section 173 Cr.P.C. against accused Omwati, Siyaram (petitioners herein) and Yogesh Bansal was filed under various sections.

4. The petitioners were convicted vide judgment dated 13.06.2014 by the learned trial Court and the lower Appellate Court, vide judgment dated 17.08.2017, reduced the sentence of the petitioners to 06 months.

5. Learned counsel for the petitioners contends that he is not



assailing the impugned judgment of conviction dated 17.08.2017 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, as petitioner Omwati has already undergone a period of about 01 month and 12 days and petitioner Siya Ram has undergone a period of 01 month and 15 days and petitioner Omwati is not involved in any other case.

6. Per contra, learned State counsel opposes the prayer of the petitioners, as the sentence of the petitioners has already been reduced by lower Appellate Court by passing a well-reasoned judgment 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 Courts below indicates no perversity in their findings and the same are 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 01.04.2009 and the petitioners have been suffering the agony of protracted trial for more than last 15 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desires to live a peaceful life. As per their custody certificates, petitioner Omwati is not involved in any other case and both the petitioners have undergone more than one month out of total sentence of 06 months, 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 revision petition is disposed of in the following terms:-

(i) The judgment dated 17.08.2017 passed by the learned Additional Sessions Judge, Faridabad, vide which, the sentence of



the petitioners was reduced to 06 months is modified to the extent that the sentence of simple imprisonment for 06 months 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.6,000/- each imposed upon the petitioners by the trial Court is enhanced to Rs.10,000/- each. 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.

July 22, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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