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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1136-2024 (O&M)

Date of decision: 02.08.2024

BALWINDER SINGH

...PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Siddharth Pandit, Advocate
for the petitioner (Legal Aid Counsel).

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 19.10.2023 passed by learned Additional Sessions Judge, Patiala upholding the judgment of conviction and order of quantum of sentence dated 20.07.2018 passed by learned Judicial Magistrate Ist Class, Patiala in case FIR No. 08 dated 10.02.2014 registered at Police Station Women, Patiala vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Balwinder Singh	498-A of Indian Penal Code	Rigorous imprisonment for two years	Rs. 500/- and in default of payment of fine, further awarded simple imprisonment for ten days.

2. In brief, the prosecution story is that on 05.02.2014, a complaint was moved before the SSP, Patiala by Manpreet Kaur-complainant alleging therein that she got married to accused-petitioner Balwinder Singh around 2 years ago and from the said wedlock, a son was born. Her husband used to drink a lot and

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in drunken condition, he used beat the complainant. On 25.06.2013, at around 1:00 p.m to 2:00 p.m in the afternoon, he came home and without any reason or provocation, started beating the complainant. When she enquired about the reason, petitioner asked her to bring Rs.3,00,000/- from her parents otherwise he threatened to kill her. After receiving severe injuries, complainant went to Police Station Bhadson, however, she was not heard. Thereafter, she went to Civil Hospital Bhadson from where she was referred to Civil Hospital, Nabha. She had received serious injuries on her person. Several Panchayats were convened but the petitioner did not hold back from his behaviour. She was beaten up again and again by the petitioner. Thereafter, the complainant left her matrimonial home and started residing with her parents. On the basis of said complaint, enquiry was marked to DSP Nabha. After the enquiry, FIR was ordered to be registered against the petitioner. On 18.02.2014, complainant handed over the list of dowry articles and other bills to the Investigating Officer. Petitioner was arrested. An offence under Section 201 IPC was added as the accused could not get recover the *istri-dhan* of the complainant. Statements of witnesses under Section 161 Cr.P.C were recorded. Finally, after completion of investigation and other necessary formalities, challan under Section 173 Cr.P.C was presented in the jurisdictional Court against the petitioner.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 19.10.2023 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 01 month and 06 days as on 31.07.2024, and is not involved in any other criminal activity.

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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 Appellant Court and as such, he does not deserve any leniency.

5. I have heard learned counsel for the parties and perused the record with his 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 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 petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

8. The FIR in the present case was filed on 10.02.2014 and the petitioner has been suffering the agony of trial since the last 10 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 01 month and 06 days out of total sentence of 02 year in the instant 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 19.10.2023 passed by the learned Additional District Judge, Patiala upholding the judgment of conviction is upheld, however, the order of sentence dated 20.07.2018 is modified to the extent that the total sentence of rigorous imprisonment for 02 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 500/- 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.

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

August 02, 2024

Ajay Goswami

(i) Whether speaking/reasoned

(ii) Whether reportable

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No