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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-1485-2018

Date of decision: 25.07.2024

Manoj Kumar and another

....Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Vivek Salathia, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 17.04.2018 passed by the learned Additional Sessions Judge, Gurugram, vide which judgment of conviction dated 01.08.2016 and order of quantum of sentence dated 06.08.2016 passed by the learned Judicial Magistrate 1st Class, Sohna, in FIR No.136 dated 05.04.2009 under Sections 323/325/406/498-A/506 of the Indian Penal Code (for short 'IPC'), registered at Police Station Sohna, has been upheld.

2. The petitioner were convicted and sentenced under Sections 323/149/325/498-A/506 of IPC and were ordered to undergo rigorous imprisonment for a period of 03 years and petitioner No.1 was ordered to pay a total fine of Rs.12,000/- and petitioner No.2 was ordered to pay a fine of Rs.8,000/- along with default mechanism.

3. Brief facts of the case as alleged are that on 16.02.2008, the injured Kusum and Rajni were tied into nuptial knots with Manoj and Rajender (petitioners herein), respectively, with the hefty amounts of dowry and gifts by their father

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but their spouses and in-laws were not mitigated with the dowry gifts given and hence started tormenting and brutalizing them with a view to compel their relatives to mitigate their unlawful demand for a Scorpio Car and for a cash of Rs.5 lakh by stating that by giving this bare minimum dowry, the complainant and her relatives had subjected them with ignominy in the society at large. It is further alleged that it was on day one of the wedlock that the accused and his mother assaulted the complainant and her sister with fist and kick blows for the non-satisfaction of their stated demands but the complainant kept stoically enduring the opprobrious and reprehensible conduct of the accused with the illusion that later or sooner, good senses shall dawn upon them and capitulating to the diabolical designs of the accused, the father of the complainant had delivered Rs.1 lakh to the father of the accused persons, namely, Dhani Ram with a request to not agitate the said demands in future citing their dire economy and in pursuance of the satisfaction of their pecuniary lust, the barbaric conduct of the accused/petitioners witnessed a temporary lull but the demon of cravings raked up its head and once again, the husbands of the complainant and her sister and their in-laws started harrowing the complainant and her sister for the non-satisfaction of the above stated dowry demands of a Scorpio Car and cash of Rs.5 lakh and once again, the complainant and her sister were subjected to physical cruelties by all the accused persons and with a view to eliminate them, the mother-in-law of the complainant and her sister, namely, Memwati, poured Kerosene Oil on the persons of the complainant and attempted to set her ablaze by throwing towards her a burning log, but somehow, the complainant managed to put off her robes and later reacting to her distressing calls, her sister Rajni rushed to the spot and upon making a rescuing

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endeavour by her, they both were battered by all the accused and later on, they were confined in a room with the intimidation that if their fiscal demand of Rs.1 lakh is not satisfied by tomorrow, they will be done to death, pursuant thereto, her father and her uncle rushed to her matrimonial abode but they were also subjected to the physical assault by their spouses and in-laws and thus, the matter was reported to concerned police station, on which formal FIR was registered against the accused persons.

4. The petitioners were convicted vide judgement dated 01.08.2016 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 17.04.2018.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 01.08.2016 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 they have already undergone a period of 01 month and 21 days and 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 Appellant 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 Vs. State of UP, (2004) 7 SCC 257*, a three-Judge Bench of the Hon'ble Supreme Court has opined that awarding of

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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, the 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 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. 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.

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10. The FIR in the present case was lodged on 05.04.2009 and the petitioners have been suffering the agony of trial since the last 15 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desire to live a peaceful life. As per their custody certificate dated 24.07.2024, the petitioner No.1 is involved in one case bearing FIR No.409 of 2016 under Sections 148/149/323/325/506 of IPC registered at Police Station Sohna, Gurugram and he is on bail in the same case and petitioner No.2 is not involved in any other case and the petitioners have undergone actual sentence of 01 month and 21 days, out of total sentence of 03 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 revision petition is disposed of in the following terms:-

- (i) The judgment dated 17.04.2018 passed by the learned Additional Sessions Judge, Gurugram, affirming the judgment of conviction dated 01.08.2016 is upheld, however, the order of sentence dated 06.08.2016 is modified to the extent that the sentence of rigorous imprisonment for 03 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.12,000/- imposed upon petitioner No.1 by the learned trial Court is increased to Rs.20,000/- and an amount of Rs.8,000/- imposed upon petitioner No.2 by the learned trial Court is increased to Rs.15,000/-. The petitioners are directed to deposit the amount of fine in the learned 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.

13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

25.07.2024
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No