

CRR-53-2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

864

CRR-53-2017 (O&M)
DATE OF DECISION: 02.08.2024

BHUPINDER SINGH AND ORS.PETITIONERS

VERSUS

STATE OF HARYANARESPONDENT

CORAM HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present Mr. Nitin Meel, Advocate, for
Mr. K.B.Raheja, Advocate,
for the petitioners.

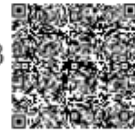
Mr. Vikas Bhardwaj, AAG, Haryana.

None for the complainant.

HARPREET SINGH BRAR, J (ORAL)

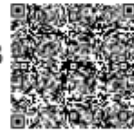
1. This revision has been preferred against the judgment dated 03.01.2017 passed by the Court of learned Additional Sessions Judge, Fatehabad vide which judgment of conviction and order of quantum of sentence dated 12/15.02.2013 passed by the Court of learned Sub Divisional Judicial Magistrate, Tohana in FIR No.132 filed under Sections 406/498-A and 323 of Indian Penal Code, registered at Police Station City Tohana, has been upheld. The petitioners were sentenced as under:

Offence	Sentence
Section 323 IPC read with Section 34 IPC	To undergo RI for six months and fine of Rs.500/- each and in default of payment of fine to further undergo RI for 15 days
Section 406 IPC read with Section 34 IPC	To undergo RI for two years and fine of Rs.2,000/- each and in default of payment of fine to further undergo SI for one month
Section 498-A IPC read with Section 34 IPC	To undergo RI for two years and fine of Rs.2,000/- each and in default of payment of fine to further undergo SI for one month

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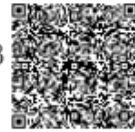
All the sentences were order to run concurrently.

2. Allegations as per FIR are that a complaint was filed by Smt. Baljinder Kaur @ Bimla against the accused. As per the complaint, the marriage of the complainant was solemnized with accused Bhupinder Singh on 19.4.2000, as per Hindu rites and ceremonies. At the time of marriage sufficient dowry articles were given by the father of the complainant to the accused. After marriage, the complainant started residing with accused no. 1 Bhupinder Singh at village Patrewala. The accused are having their agricultural land at village Patrewala, District Ferozepur and village Surewala, District Hanumangarh (Rajasthan) and the family of the accused is joint and used to reside at village Patrewala. Accused Indro Bai, who is Bua of accused Bhupinder, also residing with him. The accused were not satisfied with the dowry handed over to them at the time of marriage and they started taunting the complainant on account of bringing less dowry. They raised a demand of Hero Honda motorcycle and cash of Rs.1,00,000/-. The accused nos. 2 to 6 used to instigate accused no. 1 upon which accused no.1 gave beating to the complainant and pressurize her to bring Rs.1,00,000/- cash and Hero Honda motorcycle. On 27.1.2001, father of the complainant handed over a sum of Rs.30,000/- to accused nos. 1 to 4 in the presence of Gurnam Singh and the accused assured him that they will not maltreat the complainant on account of dowry demands. On 25.3.2001, all the accused pressurized her to bring dowry from her parents and confined her in a room in a starved condition. They released her with the condition that she would bring Rs.70,000/- cash and a Hero Honda motorcycle. After 15 days when his brother Yashpal Singh came to her, the complainant disclosed her the entire episode and she went to her parental home. Thereafter, after 20 days her father and Gurnam Singh convinced the accused and left the complainant in her matrimonial home.

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On 8.8.2001, complainant gave birth to a daughter and at that time also, her parents had given sufficient articles. On 2.10.2001, all the accused gave fists and slaps blow to her and accused nos. 5 and 6 also pulled her hair. On 24.12.2001, Panchayat was convened in which accused tendered their apology and assure that they will not raise the demand of dowry. On 18.5.2002, accused again raised the demand of dowry. Accused nos. 1, 3, 5 and 6 got removed all the ornaments of the complainant and accused no. 5 and 6 pulled the complainant from her hair and abused her. Thereafter, accused nos. 3 and 4 caught hold the legs of the complainant and accused nos. 5 and 6 gave kicks blow to him and thereafter, handed over the complainant to her Bua Krishana and Fuffa Kulwant Singh who were residing at the distance of 15 kms from her matrimonial home. Accused have not returned her ornaments as well as ISTRIDHAN despite demand by the complainant. Thereafter, the complainant remained stayed at the house of Bua for 4-5 days and then she was brought at village Lohakhera by her father and on 25.5.2002, she was medico legally examined. On the basis of the complaint, FIR of this case was registered and the matter was investigated. Accused Taro Bai, Arjun Singh and Bhupinder were arrested. Statements of the witnesses under section 161 Cr.P.C. has been recorded. On completion of other necessary formalities of investigation, challan was presented to the trial court against accused Tara Bai, Arjun Singh and Bhupinder whereas accused Sampuran, Kamlesh and Indro Bai were kept in column no. 2.

3. The petitioners were convicted and sentenced vide judgement dated 12/15.02.2013 by the Court of learned Sub Divisional Judicial Magistrate, Tohana which has also been upheld by the Court of Additional Sessions Judge, Fatehabad vide judgment dated 03.01.2017.

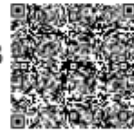
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4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 03.01.2017 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioners as they have already undergone a period of 01 month and 22 days except petitioner No.1, who has undergone a period of more than 05 months and are not involved in any other criminal activity.

5. 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 Court of learned Additional Sessions Judge, Fatehabad and as such, he does not deserve 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 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

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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. 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.

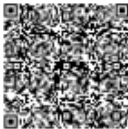
9. The FIR in the present case was lodged on 06.08.2002 and the petitioners have been suffering the agony of trial since the last 22 years. Since their conviction, the petitioners have grown into law-abiding citizens and desire to live a peaceful life. As per their custody certificates, they are not involved in any other case and have undergone actual sentence of 01 month and 22 days except petitioner No.1 who has undergone actual sentence of 05 months and 04 days out of total sentence of 02 years 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 the petitioners are reduced to the period already undergone by them.

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

(i) The judgment dated 03.01.2017 passed by the Court of learned

Additional Sessions Judge, Fatehabad affirming the judgment of



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conviction is upheld, however, the order of sentence dated 15.02.2013 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioners are reduced to the period of sentence already undergone by them.

(ii) The sentence of fine of an amount of Rs.4,500/- (Rs.500+2,000+2,000) each imposed upon the petitioners by the trial Court is increased to Rs.10,000/- The petitioners are directed to deposit the said increased 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.

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

02.08.2024
mamta

(HARPREET SINGH BRAR)
JUDGE

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