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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-961-2018
Date of decision: 18.10.2024

HARISH BHARDWAJ AND OTHERS

...PETITIONERS

V/S

STATE OF UT, CHANDIGARH AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gurbir Singh Sandhu, Advocate for the petitioners.

Mr. Anil Kumar Lamdharia, Addl. P.P., UT Chandigarh.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred against the judgment dated 09.01.2018 passed by learned Additional Sessions Judge, Chandigarh, vide which, judgment of conviction and order of quantum of sentence dated 22.07.2014 passed by learned Judicial Magistrate Ist Class, Chandigarh in case bearing FIR No.511 dated 26.10.2004 registered under Sections 406/498-A IPC at Police Station Sector 39, Chandigarh has been upheld.
2. The petitioners were sentenced as under:

Petitioner’s name	Offence	Sentence
Harish Bhardwaj, Raj Rani and N.L. Sharma	406 IPC	RI for 03 years with a fine of Rs.1,000/- each in default of payment of fine to undergo SI for 01 month
	498-A IPC	RI for 03 years
All the sentences shall run consecutively.		



3. Briefly, the facts of the prosecution story are that on 31.08.2004, the complainant made a complaint against Harish Bhardwaj son of Sh.N.L. Sharma, N.L. Sharma and Smt. Raj Rani wife of Sh. N.L. Sharma, wherein she stated that her marriage was solemnized with Harish Bhardwaj on 14.01.2001. Out of the wedlock, no child was born. After some time of marriage, matrimonial dispute ensued between the complainant and her husband and his family members on account of demand of dowry in the form of cash and other articles and the complainant was turned out of the matrimonial house. Thereafter, she instituted a petition under Section 9 of Hindu Marriage Act for restitution of her conjugal rights at Chandigarh, where efforts were made to settle the matter, but to no effect and in-laws of the complainant did not mend their ways. Furthermore, they did not return her gold ornaments and other dowry articles lying in the matrimonial house. On the basis of said statement, FIR (supra) was registered against the accused/petitioners.

4. The petitioners were convicted vide judgment dated 22.07.2014 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 09.01.2018.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction and order of sentence dated 22.07.2014 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. Petitioner Nos.1 and 2 have undergone a total period of 01 year and 02 months and petitioner No.3 has undergone a total period of 05 months and 07 days and all of them are not involved in any other case.

6. *Per contra*, learned Addl. Public Prosecutor, UT Chandigarh 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 Appellate 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 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 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.

10. The FIR in the present case was lodged on 26.10.2004 and the petitioners have been suffering the agony of protracted trial for last 20 years. Since their conviction, the petitioners have grown into law-abiding citizens and desire to live a peaceful life. As per their custody certificate, they are not involved in any other case and petitioner Nos.1 and 2 have undergone total sentence of 01 year and 02 months and petitioner No.3 has undergone a period of more than 05 months 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 petition is disposed of in the following terms:-

(i) The judgment dated 09.01.2018 passed by the learned Additional Sessions Judge, Chandigarh, affirming the judgment of conviction is upheld, however, the order of sentence dated 22.07.2014 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 subject to the fine of an amount of Rs.10,000/- each upon all the petitioners.



(ii) 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.

October 18, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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