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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1814-2022 (O&M)
Date of decision: 25.07.2024

YATINDER BHARDWAJ AND ANOTHER

...PETITIONERS

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Kusum Raj, Advocate for
Mr. A.D.S. Jattana, Advocate for the petitioners.

Mr. Rishabh Singla, AAG Punjab.

Mr. B.S. Jaswal, Advocate
for respondent No. 2.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 27.07.2022 passed by learned Additional Sessions Judge, SAS Nagar (Mohali) upholding the judgment of conviction and order of quantum of sentence dated 20.02.2018 passed by learned Judicial Magistrate Ist Class, Derabassi in FIR No. 07 dated 06.01.2013 registered at Police Station Lalru, District SAS Nagar, vide which the petitioners were sentenced as under:

Sr No.	Name of petitioners	Conviction under Sections	Sentence awarded	Fine imposed
1.	Yatinder Bhardwaj	498-A of Indian Penal Code	02 years rigorous imprisonment each	Rs. 1,000/- and in default of payment of fine, further awarded simple imprisonment for 07 days.
2.	Shakuntla Devi	406 of Indian Penal Code	02 years of rigorous imprisonment each	Rs. 1,000/- and in default of payment of fine, further awarded simple imprisonment for 07 days.

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2. Brief facts of prosecution story is that complainant filed a complaint to SSP, Mohali to the effect that he has three children. His elder daughter namely Neha Rani has done +1 and thereafter, they started searching boy for her. On 23.10.2021, they read in newspaper about a boy namely Yatinder Bhardwaj (petitioner No. 1). Thereafter, they contacted Sheetal, elder sister of Yatinder Bhardwaj as the contact number of Sheetal was mentioned in the newspaper. Accordingly, they visited the house of Yatinder to see him on 28.11.2011 where Sheetal, her mother and Yatinder talked to them and when they asked about father of boy they replied that their father is simpleton person and every decision is being taken by them. On the next day, i.e. 29.11.2011 they came to see their daughter. The entire family of Yatinder came to see their daughter but Yatinder did not come. They liked their girl and on the very next day i.e. 30.11.2011 they again came to their house along with boy Yatinder early in the morning at 7 A.M and asked them to do the Shagun ceremony as the boy had to go to office. It is further stated that when they asked them about any demand then they said that they have no demand. They felt satisfied. They gave Rs. 1100/- as shagun to his daughter along with a sweet box and they (parents of complainant) gave Rs. 2100/- as shagun to Yatinder. In the evening Sheetal told them on phone that they want to marry Neha very soon as mother of Yatinder mostly remains ill and he said that he needs at least six months time. But they insisted on an early marriage and they ultimately informed him that 04.12.2011 is the date for marriage. On 02.12.2011, Yatinder Bhardwaj, Shakuntla (petitioner No.2), Sheetal and Anjali again visited their house and raised demand of Rs.5 Lakhs and gold jewelry for Sheetal and Anjali and one gold kara for Amrik Chand and they also demanded Innova for Yatinder. Then

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he expressed his inability to do the same then they all started threatening him that they would break matrimonial alliance if their demands were not fulfilled. As the invitation card of marriage were distributed and marriage date was coming so under forceful circumstances, he gave them assurance that he would do his level best to fulfill their demand. Then again while leaving, it was insisted by the accused that all the articles were to be handed over before the engagement ceremony to be held on 03.12.2011. On 03.12.2011, when they reached the house of accused to perform Shagun ceremony, they handed over one AC, motorcycle, Rs.21000/- cash and gold articles. He further stated that Sheetal and Anjali who are sisters of the petitioner No. 1-Yatinder Bhardwaj misbehaved with him and stated that he had cheated them and they both rudely announced that he and his daughter have to face dire consequences of not fulfilling their demand. He then talked to his father Amrik Singh and he informed him that he is against all these demands and Yatinder is acting on the advice of husband of Sheetal and Anjali and they all tarnishing the family image and culture by demanding dowry. Amrik Singh also gave assurance that they would not allow anyone to harass his daughter after marriage. On 4.12.2011, the marriage of his daughter was solemnized at Lalru which was attended by more than 1000 persons. After marriage, his daughter Neha and boy Yatinder were ready to go to Manali for honeymoon on 9.12.2011 and sisters and mother of Yatinder asked Neha to hand over her all the jewellery to them on the pretext that the same were given to Neha just to show off. At that time, Neha was shocked to see the attitude of her in-laws. After return from honeymoon, his daughter was shocked to see the attitude of her in-laws family especially her mother-in-law Shakuntla (petitioner No. 2) taunted her that her



son has no so much money to spent on her and her father has not given any money as demanded by them. On hearing this, Neha was further shocked when Shakuntla, Sheetal and Anjali all started taunting Neha for not bringing Innova for Yarinder in the Dowry. It is further stated that Sheetal, Yatinder, Shakuntla, Anjali have been continuously taunting her daughter on the pretext of bringing less dowry. The father-in-law of Neha never harassed Neha after marriage but he helped Neha on many occasions. During January/February, 2012 Neha became pregnant. Due to pregnancy, Neha started remaining ill and she continued to suffer from fever but she was not taken to any doctor. Neha could not prepare food for two days and her mother-in-law told her daughter Sheetal that Neha has not done any work and Sheetal gave a call to Neha and said that she is not going to give birth to special child as they have also gave birth to children. She said that she has become pregnant so early and her brother have no money to take care of child and advised to get abort the child and if she does not want to abort the child then got to her parental house. He further stated that after this phone call, mother-in-law of Neha said that they are not in a position to bear the expenses of child, so she advised to take some medicine for aborting the child. When Neha refused to do then Yatinder dragged her and threw her on bed and slapped Neha and gave threats that if Neha would not agree then he would give kick blows in her stomach and would forcibly abort the child. On the very next morning when Neha saw that all the persons are sleeping then she made call to her grand mother and told that she is not being treated very well and asked them to come to her matrimonial home. Upon this, he alongwith his mother reached the matrimonial house at Panchkula and when they saw the condition of Neha, they were shocked that she was suffering from



fever. Yatinder and Shakuntla ordered them to take Neha by saying that they don't want to keep a '*kutiya*' in their family and they would keep Neha only if he would given them Innova Cash of Rs. 10 lakh. Amrik Chand too informed him that Yatinder, Shakuntla and his daughters do not give any respect to Neha and it is better for Neha to leave them forever. Then he brought Neha home in three clothes and since then she is living with them. On the statement of complainant, present case was registered and the matter was investigated and ultimately FIR(supra) was registered on 06.01.2013 and after proper investigation, the challan was prepared and presented. On finding the facts reliable, police proceedings were initiated. Statement of witnesses were recorded. After completion of police investigation, challan in the present case FIR was filed against the accused persons.

3. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 27.07.2022 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 No. 1 has already undergone a period of 01 month and 22 days and petitioner No. 2 has undergone a period of one month and 21 days, and petitioner No. 2 is not involved in any other criminal activity.

4. Per contra, learned State counsel opposes the prayer of the petitioners on the ground that the learned trial Court and has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been partly 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 lodged on 06.01.2013 and the petitioners have been suffering the agony of trial since the last 11 years. Since their conviction, the petitioners have grown into law-abiding citizens and desire to live a peaceful life. As per their custody certificate, petitioner No. 2 is not involved in any other case, however, petitioner No. 1 is involved in one more FIR and have undergone actual sentence of 01 month and 22 days and one month and 21 days respectively of 02 years 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 petitioners is reduced to the period already undergone by them.

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

(i) The judgment dated 27.07.2022 passed by the learned Additional Sessions Judge, SAS Nagar (Mohali) upholding the judgment of conviction is upheld, however, the order of sentence dated 20.02.2018 is modified to the extent that the total substantive sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.

(ii) Fine of Rs. 2000/- (each) imposed upon the petitioners is enhanced to Rs. 10000/- 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 simple imprisonment for one month.

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

July 25, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

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