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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1635-2024 (O&M)
Date of decision: 11.09.2024

Balwinder Singh and another

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amandeep Singh, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Instant revision petition has been preferred against the judgment of conviction dated 18.01.2020 and order of quantum of sentence of even date, passed by learned Chief Judicial Magistrate, Faridkot, in FIR No.159 dated 18.10.2013 under Sections 498-A, 406, 342, 323 of the Indian Penal Code (for short 'IPC'), registered at Police Station Sadar Kotkapura, District Faridkot, vide which the petitioners were convicted and sentenced under Sections 498-A, 406, 323, 342 of IPC and were ordered to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each along with default mechanism as well as the judgment dated 20.07.2024 passed by learned Sessions Judge, Faridkot, vide which, while upholding the



conviction of the petitioners and co-accused Harwinder Kaur, the appeal filed by them against the aforementioned judgment of conviction and order of quantum of sentence, has been dismissed.

2. Brief facts of the case, as alleged, are that marriage of the complainant was solemnized with Sharanjit Singh on 30.08.2009 and at the time of marriage, sufficient dowry articles were given to the accused and Rs.8.00 lacs were spent on the marriage by her parents. The complainant handed over her entire *istridhan* to her in-laws and they promised to return the same on her demand. After some time of the marriage, husband of the complainant along with his father and sisters started harassing her and demanded Rs.2.50 lacs from her parents and gave beatings to her. Even sisters of husband of the complainant used to say that Sharanjit Singh was their only brother and he deserved a car in the marriage. On 18.01.2010, husband of the complainant went to Dubai and the complainant moved to her parental home and after returning back on 06.06.2010, husband and father-in-law of the complainant demanded Rs.3.00 lacs. Thereafter, the complainant reported the matter to Women Cell, Ludhiana, which was compromised on 23.09.2010, as the accused admitted their mistake and furnished an affidavit not to repeat the same again. After some time, husband, father-in-law, sisters-in-law of the complainant, respectively, again started harassing her. Accused Harwinder Kaur, being elder sister of husband of the complainant, was residing in the same house and she used to quarrel with her on petty matters and after the death of her mother-in-law, her father-



in-law was keeping evil eyes on her. In August, 2011, the complainant gave birth to a male child and at that time, she was at her parental home and all the expenses for her delivery were borne by her parents. Thereafter, husband of the complainant felt sorry and brought her to her matrimonial home, however, her in-laws again harassed her. When she disclosed about the same to her parents, they along with panchayat came to her matrimonial home on 30.08.2013. On the very next day i.e. 31.08.2013, when the complainant was sitting in her room on first floor, at about 09.00 a.m., her father-in-law and sister-in-law namely Parwinder Kaur gave beatings to her. She made a phone call to the police, upon which they fled away from the house and thereafter, no action was taken by the police. On the same day i.e. 31.08.2013 at about 02.15 p.m., her husband and her father-in-law again gave beatings to her and she was confined in a room as a captive till 08.15 p.m. and at about 08.30 p.m., when her parents came and found her in injured condition, they got admitted her in GGS Medical College, Faridkot, where her medico-legal examination was conducted. With these allegations, FIR (*supra*) was registered against the accused persons.

3. The petitioners were convicted vide judgement of conviction dated 18.01.2020 by learned trial Court, which has been upheld by lower appellate Court vide judgment dated 20.07.2024.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 18.01.2020 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 out of rigorous imprisonment of one year awarded by learned trial Court, they have already undergone a period of 01 month and 26 days respectively and are not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the petitioners, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by learned lower appellant Court and as such, they do 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 Vs. 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, 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.

8. A perusal of the judgment of conviction passed by 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 18.10.2013 and the petitioners have been suffering the agony of trial since the last 09 years. Since their conviction, the petitioners have grown into law-abiding citizen and desire to live a peaceful life. As per their custody certificates dated 10.09.2024, the petitioners are not involved in any other case and have undergone total sentence of 01 month and 26 days respectively.

10. 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 revision petition is disposed of in the following terms:-

- (i) The judgment dated 20.07.2024 passed by learned Sessions Judge, Faridkot, affirming the judgment of conviction dated 18.01.2020 is upheld, however, the order of sentence of even date, is modified to the extent that the sentence of rigorous imprisonment for one year 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.1,000/- each imposed upon the petitioners by learned trial Court is increased to Rs.5,000/-. The petitioners are directed to deposit the increased 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 will be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

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

[HARPREET SINGH BRAR]
JUDGE

11.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No