

CRR-3985-2016 (O&M)

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855 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-3985-2016 (O&M)
Date of Decision: 29.11.2024

SUKHWINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Adhiraaj Sharma, *amicus curiae*
for the petitioner.

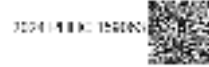
Mr. Nitesh Sharma, DAG Punjab.

None for respondent No. 2.

Harpreet Singh Brar J.(Oral)

1. This revision has been preferred by the petitioner against the judgment dated 13.09.2016 passed by learned Additional Sessions Judge, Patiala upholding the judgment of conviction and order on quantum of sentence dated 11.03.2016 passed by learned Judicial Magistrate Ist Class, Patiala vide which petitioner has been convicted under Section 498-A of Indian Penal Code and sentenced to undergo rigorous imprisonment for one year and six months (18 months) along with fine of Rs. 1,000/- with default mechanism in case bearing FIR No.10 dated 18.01.2012 registered at Police Station Women Patiala.

2. The FIR(supra) was got registered on the basis of complaint made by the complainant Gurdeep Kaur, wherein it was alleged that her marriage was solemnized with accused Sukhwinder Singh on 10.12.2006. A male child was born out of their wedlock on 13.10.2007. But, the accused and his family members were not satisfied with the dowry brought by the complainant in the marriage and they started maltreating and harassing her.



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After the birth of male child, they started demanding Rs. 5 lakhs from the complainant and when she showed her inability to fulfill their demands, she was given merciless beatings by them. It was further alleged that in the month of July, 2008, when father of the complainant visited her matrimonial home, he found that accused-petitioner Sukhwinder Singh was beating the complainant while her mother-in-law and brother-in-law were helping him. The matter was reported to the police but a compromise was effected between the parties on 28.07.2008 whereby the accused assured the father of the complainant that he would not repeat such acts in future. But despite the compromise, they did not mend their ways and again started demanding money from the complainant. A sum of Rs.70,000/- was paid by father of the complainant to the accused. On 05.10.2011, when the parents of the complainant visited the matrimonial home of the complainant on the occasion of Dussehra, they saw the complainant in a very bad condition. Thereafter, another demand of Rs. 2 lakhs was made by the accused, failing which she was again beaten up mercilessly by the accused-petitioner. Ultimately, on 11.10.2011, the complainant was taken by her father from the matrimonial home and he got her admitted in Rajindra Hospital, Patiala. On the basis of aforesaid allegations, FIR(supra) was registered.

3. On assessing all the material available on the record, the petitioner was convicted vide judgment dated 11.03.2016 by learned JMIC, Patiala. Aggrieved by the same, the petitioner preferred an appeal, which was dismissed by learned lower Appellate Court vide judgment dated 13.09.2016.

4. Learned counsel (*amicus curiae*) *inter alia* contends that learned Courts below have convicted the petitioner by committing irregularities and the case was not decided upon proper analysis of the evidence available on record and the case set up by the prosecution completely lacks any specificity of any date, month or year of alleged harassment or maltreatment given to the complainant. Further, no medical evidence or documentary evidence was produced with regard to substantiate the allegation of demand of dowry and list of dowry articles produced by the complainant has not been proved in accordance with law and there are major contradictions in the statement of witnesses examined by prosecution and further the maximum sentence provided for the offence under which the conviction has been awarded is upto 03 years and benefit of probation has not been granted to the petitioner and the petitioner is not involved in any other case.

5. *Per contra*, learned State counsel opposes the prayer of petitioner on the ground that learned JMIC, Patiala has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the same has also been upheld by the learned lower Appellate Court. As such, the petitioner does not merit any leniency.

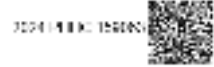
6. I have heard learned counsel for the parties and perused the record with their able assistance.

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 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 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.

9. The FIR in the present case was registered on 18.01.2012 and petitioner has been suffering the agony of protracted trial for more than last 12 years. Since his conviction, petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he has undergone actual sentence of 11 months and 26 days and earned



remission of 02 months and 17 days. Thus, total period of sentence undergone by him is 01 year 02 months and 13 days out of total sentence of one and half year i.e. 18 months.

10. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to petitioner is reduced to the period already undergone by him.

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

- (i) The judgment dated 13.09.2016 passed by learned Additional Sessions Judge, Patiala affirming the judgment of conviction dated 11.03.2016 passed by learned JMIC, Patiala is upheld, however, the order of sentence dated 11.03.2016 is modified to the extent that rigorous imprisonment for one and half year (18 months) awarded to the petitioner is reduced to the period of sentence already undergone by him and the fine of Rs. 1,000/- is enhanced to Rs. 10,000/-.
- (ii) The petitioner is directed to deposit the amount of fine in the trial Court within one month from the jdate of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for 15 days. Amount of fine already paid by the petitioner, if any, shall be adjusted at the time of final payment of fine.

12. High Court Legal Services Committee is directed to pay remuneration to *amicus curiae* as per rules.

(HARPREET SINGH BRAR)

JUDGE

29.11.2024

Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No