

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

334

CRR-3173-2009

Date of decision: 01.03.2023

Balbir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Chirag Girdhar, Advocate for
Mr. R.K. Girdhar, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner has filed the instant revision petition to impugn the order dated 26.10.2009 passed by learned Additional Sessions Judge (Fast Track Court), Bathinda whereby the appeal preferred by him against the judgment of conviction and order of sentence dated 18.09.2008 passed by learned Sub Divisional Judicial Magistrate, Talwandi Sabo, was dismissed.

Vide judgment of conviction and order of sentence dated 18.09.2008, learned Sub Divisional Judicial Magistrate, Talwandi Sabo, convicted and sentenced the petitioner as under:-

Offence(s)	Period of sentence(s)	Fine imposed	Period of sentence in default of payment of fine
326 of the IPC	RI for 03 years	₹ 1,000/-	RI for 15 days

Learned counsel for the petitioner has fairly submitted that in view of the findings of fact recorded by both the Courts below, he would not press the instant revision petition on merits and would

instead restrict his prayer qua the quantum of sentence only. Learned counsel submits that the occurrence in question pertains to the year 2003 and the petitioner has thus, suffered the agony of a protracted trial for about 20 years. Learned counsel further submits that the petitioner has been leading a disciplined life ever since then and has not been involved in any other criminal case. A prayer, therefore, has been made that in the aforesaid facts and circumstances, a lenient view be taken and the quantum of sentence awarded to the petitioner by the Trial Court be reduced to the period already undergone as no useful purpose would be served by sending the petitioner behind bars.

Learned State counsel while opposing the prayer made by counsel opposite submits that due to the occurrence in question, the complainant sustained grievous injuries, hence, the petitioner did not deserve any leniency. A prayer, therefore, has been made for dismissal of the appeal.

Heard learned counsel for the parties and perused the impugned judgments passed by the Courts below. This Court does not find any illegality much less perversity in the concurrent findings recorded by both the Courts below.

Coming to the prayer of the learned counsel for the petitioner with respect to quantum of sentence, it would be apposite to point out here that the incident in question occurred in the year 2003 and ever since then the petitioner has faced long and protracted criminal proceedings for about 20 years. It has not been disputed by the State counsel that after the occurrence in question, the petitioner had not been involved in any other criminal case and as conceded by the

State counsel, he has not misused the concession of bail granted to him during all these preceding years.

As per the custody certificate filed by learned State counsel today in the Court, the petitioner has undergone a total sentence of 01 year 06 months and 05 days and is not shown to be involved in any other criminal case.

In the above facts and circumstances, this Court does not deem it appropriate to send the petitioner behind bars at this juncture when admittedly he has been fastened with many responsibilities in the preceding few years. It cannot be overlooked that the ultimate goal of punishment in a modern civilized society is to attempt reformation of the offender. It may not always be necessary in each and every case to incarcerate the offender where he/she has had an opportunity to repent for his/her wrongs. Forgiveness would ensure a better remedy than imprisonment, especially in cases like the one in hand where the accident in question could not be said to have been an intentional act.

Hon'ble Supreme Court in '***Ved Prakash vs. State of Haryana***', 1981(1) SCC 447 has also observed that "*it is the duty of the sentencing Court to be activist enough to collect such facts as have a bearing on punishment with a rehabilitating slant.*" It was further observed by the Apex Court "even if the Bar does not help, the Bench must fulfill the humanizing mission of sentencing implicit in such enactments as the Probation of Offenders Act.

Keeping in view the facts and circumstances of the case as well as the submissions made by learned counsel for the petitioner, this

Court is of the considered view that ends of justice would be met, if

while maintaining the conviction of the petitioner, his substantive sentence of 03 years is reduced to the period already undergone by him in the present case.

However, fine imposed on the petitioner is enhanced from ₹ 1,000/- to ₹ 11,000/- under Section 326 of the IPC. It is made clear that in case of non-deposit of fine with the trial/successor Court within a period of two months from the date of this order, benefit of reduction of sentence shall not accrue to the petitioner and he will be required to undergo the remaining part of the sentence awarded to him. On deposit of fine, the enhanced amount of fine shall be disbursed to the injured/complainant, against proper identification.

With the aforesaid modifications, the instant revision petition is disposed of.

01.03.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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