

**CRA-S-1936-SB-2003****-2-**

complainant objected to this act and told them that he was not the owner of Dhaba and thereafter, some altercation took place between them and Dinesh @ Pinchu along with his friends left that Dhaba but he returned after some time along with 8-10 persons in a three wheeler. At that time, the complainant along with his friends were coming out of Dhaba after taking meals and were standing on the road side. Dinesh gave two knife blows to Roopesh and his another companion gave him fist blows. When the complainant and Sanjay tried to intervene then two assailants caught hold of Sanjay and one of them attacked him with a knife which struck on the right side of his neck. After that two young persons caught hold of the complainant and one of them gave a blow of knife from his back which struck on the left side and another one struck on his left arm and cheek. Thereafter, they got rescued by Yashpal and Sudesh Rana and got admitted in B.K. Hospital, Faridabad and thus, the FIR was registered.

4. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 25.08.2003 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the appellant as the appellant-Raju @ Prem Chand has already undergone a period of 03 months and 29 days and is not involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioner/appellant 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 Appellant Court and as such, he does 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 v. State 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.



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. Moreover, learned counsel for the appellant 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 11.01.2000 and the appellant has been suffering the agony of trial since the last 24 years. Since his conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone actual sentence of 03 months 29 days out of total sentence of 02 years in the instant case.

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

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

(i) The judgment dated 25.08.2003 passed by the learned Additional Sessions Judge, Faridabad is upheld, however, the order of sentence dated 27.08.2003 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of Rs.4,000/- imposed upon the appellant by the trial Court is increased to Rs.10,000/-. The appellant is 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 appellant shall 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

17.05.2024
Neha

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