

**CRR-392-2019 (O&M)****1****232(2)****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-392-2019 (O&M)****Date of Decision: 09.09.2024****JAGTAR SINGH****...PETITIONER****Versus****STATE OF PUNJAB AND ANOTHER****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Mr. B.D. Sharma, Advocate
for respondent No. 2.**********HARPREET SINGH BRAR J. (ORAL)**

1. Present revision petition has been preferred by the petitioner against the judgment of conviction and order on quantum of sentence dated 17.11.2016 vide which petitioner was convicted under Section 174-A of Indian Penal Code and sentenced to undergo rigorous imprisonment for one year with fine of Rs. 2,000/- with default mechanism, by learned Judicial Magistrate Ist Class, Amritsar and the said judgment of conviction has been upheld by learned Additional Sessions Judge, Amritsar vide order dated 14.01.2019.

2. The brief facts of the prosecution case are that the complainant Sukhraj Kaur has moved an application before the police on 26.06.2007 to the effect that accused-Surjit Singh is her husband and remaining accused are her in-laws family members. She further averred that her in-laws family member demanded car from her. She was subjected to cruelty and maltreatment due to non fulfillment of abovesaid demands. Even the accused persons tried to kill the

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complainant by forcing her to drink milk containing poisonous substance but she refused to take the said milk. Even her sister-in-law Rupinder Kaur and her husband Surjit Singh leased out the land of her share and even they fraudulently created false documents. The said land was self acquired by her husband. Her brother-in-law Jagtar Singh (petitioner herein), sister-in-law Rajwant Kaur, father-in-law Ajit Singh and mother-in-law Swaran Kaur turned her out from her matrimonial home when she was pregnant. She prayed for taking necessary actions against the accused persons. On her complaint investigation was initiated, accused were arrested and after completion of investigation proceedings, final report under Section 173 Cr.P.C. was presented before the Court. It is not out of mention to record here that accused Jagtar Singh (petitioner herein) did not prefer to appear before the court and ultimately was declared as proclaimed offender.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 17.11.2016 on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 02 months and 21 days.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that 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 Appellate Court and as such, he does not deserve any leniency. Moreover, the petitioner is also involved in one more case.

5. I have heard learned counsel for the parties and perused the record with their 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 submits that the said judgment 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.

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8. The FIR in the present case was filed on 28.06.2007 and the petitioner has been suffering the agony of trial since the last 17 years. As per the custody certificate, the petitioner has undergone actual sentence of 02 months and 21 days out of total sentence of one year.

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

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

(i) The judgment dated 14.01.2019 passed by the learned Additional Sessions Judge, Amritsar upholding the judgment of conviction is upheld, however, the order of sentence dated 17.11.2016 is modified to the extent that the total sentence of rigorous imprisonment for one year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 2000/- imposed upon the petitioner is enhanced to Rs. 10,000/-. The petitioner 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 petitioner 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.

(HARPREET SINGH BRAR)
JUDGE

09.09.2024*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>