

**CRA-S-811-2020 (O&M)****1****215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRA-S-811-2020 (O&M)
Date of Decision: 05.11.2024****KARAN****.....Appellant****Versus****STATE OF HARYANA****.....Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Rajesh Duhan, Advocate
for the appellant.****Mr. Vikas Bhardwaj, AAG Haryana.************HARPREET SINGH BRAR, J. (ORAL)**

1. Present appeal has been preferred by the appellant against the judgment of conviction and order on quantum of sentence dated 31.10.2019 passed by learned Additional Sessions Judge-cum-Special Judge, Rohtak, vide which appellant was convicted under Section 363 of Indian Penal Code and sentenced to undergo rigorous imprisonment for three years along with fine and default mechanism.

2. The brief facts of the prosecution case are that the complainant presented an application before the police submitting therein that she was blessed with three sons and one daughter. Her husband had gone to village for some work. Her younger daughter aged about 14/15 years (name not disclosed) was studying in 6th class. On 08.02.2018 at 8.00 A.M., her daughter had gone to school but she did not come back. They searched her out at their own level. After that they came to know that Karan (appellant herein) resident of village

Bainsi was also missing from his house. They had suspicion that Karan had



enticed away her daughter. The height of her daughter was 5 feet, colour dark, body slim, face-round and at that time she was wearing white coloured suit and salwar.

3. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 31.10.2019 on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the appellant as he has already undergone a period of 02 years 01 month and 27 days including remission.

4. Per contra, learned State counsel opposes the prayer of the appellant on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency.

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 the said judgment 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.

8. The FIR in the present case was registered on 10.02.2018 and the appellant has been suffering the agony of trial since the last 06 years. As per the custody certificate, the appellant has undergone total sentence of 02 years 01 month and 27 days including remission out of substantive sentence of three years.

9. 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.

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

(i) The judgment of conviction dated 31.10.2019 passed by the learned Special Judge-cum-Additional Sessions Judge, Rohtak is upheld, however, the order of sentence dated 31.10.2019 is modified to the extent that the total sentence of imprisonment for three years awarded to the appellant is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 1500/- is enhanced to Rs. 10,000/- upon the appellant. 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 simple imprisonment for one month.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

05.11.2024
Ajay Goswami

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