



2. Brief facts of the prosecution case are that on 03.04.2000 HC Avtar Singh alongwith other police persons present in the area of bridge Nadiali for patrolling duty where Ashe Rani resident of Nadiali along with her mother Chhano w/o Gian Chand recorded her statement to the Investigating Officer that she is resident of the above said address and doing household work. On 31.03.2000 at about 6.30 pm she has gone to throw the rubbish on the *ruri* from her house, where Jasbir Singh (petitioner herein) s/o Tek Singh r/o Nadiali was standing behind the *gohara*. He caught hold her and caught hold her breast and dragged her behind the *gohara*. She raised alarm. Her mother Chhano and Darshna reached there and saved her from the clutches of the accused otherwise he might have raped her. She has apprehension from Jasbir Singh. He can rape her any time. Ruqa through PGH Atma Ram was sent to the police station for registration of the FIR against the accused. I.O. visited the spot and recorded the statements of witnesses. He prepared the site plan. On 21.04.2000 accused-petitioner Jasbir Singh was arrested and released on bail. After completion of remaining investigation, challan was presented in Court.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 18.09.2004 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner as has already undergone a period of 01 month and 09 days, and is not involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioner 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 his 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 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 petitioner/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 03.04.2000 and the petitioner has been suffering the agony of trial since the last 24 years. Since his conviction, the petitioner 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 01 month and 09 days out of total sentence of 01 year 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 petitioner is reduced to the period already undergone by him.

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

(i) The judgment dated 02.12.02009 passed by the learned Additional Sessions Judge, Patiala affirming the judgment of conviction is upheld, however, the order of sentence dated 18.09.2004 is modified to the extent that the sentence of simple imprisonment for 01 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 200/- imposed upon the petitioner is enhanced to Rs. 10000/-. 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.

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

May 17, 2024

Ajay Goswami

(i) Whether speaking/reasoned

(ii) Whether reportable

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No