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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR-151-2011

Date of Decision: January 12, 2024

SATNAM SINGH AND OTHERS

...PETITIONERS

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.P.S Virk, Advocate  
for the petitioner No.1.

(Petition stood disposed of qua petitioner Nos.2  
to 4 vide order dated 08.03.2011).

Mr. Kuldip Sanwal, Advocate  
for the complainant.

Mr. Sandeep Kumar, DAG, Punjab.

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HARPREET SINGH BRAR, J. (ORAL)

This revision has been preferred against the judgment dated 26.11.2010 passed by learned Additional Sessions Judge (Ad hoc) Fast Track Court, Gurdaspur, upholding judgment of conviction and order of sentence dated 17.11.2005 passed by learned Additional Chief Judicial Magistrate, Gurdaspur in FIR No. 1131 dated 04.08.1998 registered under Sections 326, 324, 323, 447, 148 and 149 of the IPC. The petitioner No.1 was sentenced as under:-

| Petitioner   | Offence under Section | Sentence  |
|--------------|-----------------------|-----------|
| Satnam Singh | 148 IPC               | RI 1 year |

|  |             |                                            |
|--|-------------|--------------------------------------------|
|  | 326/149 IPC | RI 2 years and fine of Rs 400/-            |
|  | 326 IPC     | RI 2 years 06 months and fine of Rs. 500/- |
|  | 324/149 IPC | RI 1 year                                  |
|  | 323 IPC     | RI 9 months                                |
|  | 447 IPC     | RI 3 months                                |

**FACTUAL BACKGROUND**

2. Briefly, the facts are that on 04.08.1998, complainant Gurpreet Singh, along with his brother Jasbir Singh, was working in their fields when Lakhbir Singh armed with *kirpan*, Satnam Singh armed with *dattar*, Sukhbir Singh armed with *chhavi*, Prabhjit Singh armed with *daang* and Rupinder Singh armed with *daang* came to their fields. Lakhbir Singh raised *lalkara* that the complainant and his brother will be taught a lesson regarding demanding passage and that they both will be killed. Thereafter, Lakhbir Singh gave a *kirpan* blow which hit Jasbir Singh’s right hand thumb, which was chopped off. Satnam Singh gave a *datar* blow on Jasbir Singh which hit his left hand thumb and right elbow. Sukhbir Singh gave a *chhavi* blow upon Jasbir Singh which hit him on the right shoulder and another on the middle finger of his left hand. Prabhjit Singh and Rupinder Singh inflicted *daang* blows, which hit the complainant on his left shoulder and upper portion of left leg while it hit Jasbir Singh on upper part of his left arm and back side of chest. Both the complainant and his brother raised alarm and Charan Singh came to the spot to rescue them. The accused ran away with their weapons. The motive behind the incident was dispute regarding passage and water course.

3. The prosecution examined as many as 07 witnesses to establish its

case. The statement of the accused was recorded under Section 313 of the Cr.P.C. wherein he denied all the incriminating evidence put to them and claimed trial. The accused pleaded false implication and examined one witness in his defence.

4. On assessing the material available on record, the learned trial Court vide judgment dated 17.11.2005 convicted and sentenced the petitioner-accused as mentioned above. Aggrieved by the judgment of conviction, the petitioner-accused preferred an appeal before the learned lower Appellate Court, which was dismissed vide judgment dated 26.11.2010.

5. The revision petition with regard to petitioners no. 2 to 4 has been disposed of by this Court vide order dated 08.03.2011 in terms of order dated 10.01.2011 passed in CRR No.3215 of 2010, while the matter against petitioner no. 1 subsists.

### **CONTENTIONS**

6. Learned counsel for the petitioner No.1 contends that he is not assailing the impugned judgment of conviction dated 17.11.2005 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioner no. 1 as he has already undergone a period of 1 year 19 days of custody. He further submits that the sentence of petitioner no. 1 was suspended by this Court vide order dated 02.12.2011 and since then he has not been involved in any other criminal activity. Furthermore, no other case is pending against him. Learned counsel further submits that petitioner no. 1 has reformed and intend to live his life as a law-abiding citizen.

7. *Per contra*, learned State counsel opposes the prayer of the petitioner No.1 as the learned trial Court has passed a well-reasoned judgment

based on correct appreciation of evidence available on record, which has been upheld by the learned lower Appellate Court, as such, he does not deserve any leniency.

### **ANALYSIS AND OBSERVATIONS**

8. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

9. 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. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

10. As per the custody certificate produced by the learned State counsel, details of custody period of the petitioner No.1 are tabulated as under:-

| Sr No. | Particulars                            | Period                   | Duration               |
|--------|----------------------------------------|--------------------------|------------------------|
| 1.     | Custody under trial                    | 13.08.1998 to 17.09.1998 | 1 month 5 days         |
| 2.     | Custody after conviction               | 26.11.2010 to 08.12.2011 | 1 year 12 days         |
| 3.     | Interim bail                           | -                        | -                      |
| 4.     | Actual custody period after conviction |                          | 11 months 19 days      |
| 5.     | Actual undergone period                |                          | 1 year 19 days         |
| 6.     | Earned remission                       |                          | 1 month 10 days        |
| 7.     | Total sentence including remission     |                          | 1 year 1 month 29 days |

11. A perusal of the judgment of conviction passed by the learned trial Court and the learned lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. Learned counsel for the petitioner No.1 has not assailed the judgment of conviction on merits, rather he has restricted his prayer to quantum of sentence qua petitioner No.1.

**CONCLUSION**

12. The FIR in the present case was instituted on 04.08.1998. Petitioner No.1 has been facing protracted proceedings for about 25 years and is not involved in any other criminal activity after his conviction in the present case and during the pendency of the present revision. Since his conviction, petitioner No.1 has grown into a law-abiding citizen and desires to live a

peaceful life. As per his custody certificate, there are no other criminal cases pending against him. Out of the total sentence awarded of 2 years and 06 months, he has undergone actual sentence of 1 year 19 days. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of rigorous imprisonment of 2 years and 06 months, awarded to petitioner No.1 is reduced to the period already undergone by him.

13. Consequently, judgment dated 26.11.2010 passed by learned Additional Sessions Judge (Ad hoc), Fast Track Court, Gurdaspur, confirming the conviction of petitioner No.1 is upheld, however, the order of sentence dated 17.11.2005 is modified to the extent that the sentence of rigorous imprisonment for 2 years and 06 months, awarded to petitioner No.1 is reduced to the period of sentence already undergone by him.

Consequently, the present revision is disposed of in the following terms:-

- (i) The judgment dated 26.11.2010 passed by the Additional Sessions Judge (Ad hoc), Fast Track Court, Gurdaspur confirming the conviction of the petitioner No.1 is upheld, however, the order of sentence dated 17.11.2005 is modified to the extent that the sentence of rigorous imprisonment for 2 years and 06 months, along with default mechanism awarded to the petitioner No.1 is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs.500/- imposed upon the petitioner No.1 by the learned trial Court is increased to Rs.10,000/-. The petitioner No.1 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 No.1 shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

14. In view of the above discussion, the present petition is partially allowed. Pending miscellaneous application(s), if any, shall also stand disposed of.

January 12, 2024  
*manisha*

(HARPREET SINGH BRAR)  
JUDGE

|      |                           |        |
|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |