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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-16-2011

Date of Decision: 01.02.2024

Jaswinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shivam Joshi, Advocate
for the petitioner

Mr. Sandeep Kumar, DAG, Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred against the judgment dated 10.12.2010 passed by learned Additional Sessions Judge (Adhoc) Fast Track Court, Gurdaspur upholding judgment of conviction and order of sentence dated 12.04.2007 passed by learned Judicial Magistrate Ist Class, Gurdaspur in FIR No. 103 dated 10.12.1999 under Section 420, 467, 468, 471 of the IPC. The petitioner was sentenced as under:-

Offence under Section	Sentence
420 IPC	RI 2 years and a dine of Rs. 500/-, in default of which RI of 7 days
467 IPC	RI 2 years and a dine of Rs. 500/-, in default of which RI of 7 days
468 IPC	RI 2 years and a dine of Rs. 500/-, in default of which RI of 7 days
471 IPC	RI 2 years and a dine of Rs. 500/-, in default of which RI of 7 days

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FACTUAL BACKGROUND

2. Briefly, the facts are that the petitioner forged the transfer order as well as LPC and did service in the department and received salary for many months and when his service record was called from the previous station, the transfer order as well as LPC produced by the petitioner were found to be forged.

3. The prosecution examined as many as 8 witnesses to establish its case. The statement of the accused under Section 313 of the Cr.P.C. was recorded wherein he denied all the incriminating evidence put to him and pleaded false implication and examined 3 witnesses in his defence, including himself.

4. On assessing the material available on record, the learned trial Court vide judgment and dated 12.04.2007 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 16.12.2010.

CONTENTIONS

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 12.04.2007 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 he has already undergone a period of 10 months 21 days of actual custody. He further submits that the sentence of the petitioner was suspended by this Court vide order dated 29.03.2011 and since then he has not been involved in any other criminal activity. Furthermore, no other case is pending against him. Learned counsel

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further submits that petitioner has reformed and intend to live his life as a law-abiding citizen.

6. *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 been upheld by the learned lower Appellate Court, as such, he does not deserve any leniency.

ANALYSIS AND OBSERVATIONS

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

8. 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

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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.

9. As per the custody certificate produced by the learned State counsel, details of custody period of the petitioner are tabulated as under:-

Sr No.	Particulars	Period	Duration
1.	Custody under trial	17.05.2000 to 28.11.2000	6 months 15 days
2.	Custody after conviction	10.12.2010 to 15.04.2011	4 months 6 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	10.12.2010 to 15.04.2011	4 months 6 days
5.	Actual undergone period		10 months 21 days
6.	Earned remission		15 days
7.	Total sentence including remission		11 months 6 days

10. 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 has not assailed the judgment of conviction on merits, rather he has restricted his prayer to quantum of sentence qua the petitioner.

CONCLUSION

11. The FIR in the present case was instituted on 10.12.1999. The petitioner has been facing protracted proceedings for about 24 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, the petitioner 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, he has undergone actual sentence of 10 months and 21 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 awarded to the petitioner is reduced to the period already undergone by him.

12. Consequently, judgment dated 16.12.2010 passed by learned Additional Sessions Judge(Adhoc), Fast Track Court, Gurdaspur, confirming the conviction of the petitioner is upheld, however, the order of sentence dated 12.04.2007 is modified to the extent that the sentence of rigorous imprisonment for 2 years awarded to the petitioners 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 16.12.2010 passed by the Additional Sessions Judge(Adhoc), Fast Track Court, Gurdaspur confirming the conviction of the petitioner is upheld, however, the order of sentence dated 12.04.2007 is modified to the extent that the sentence of rigorous imprisonment for 2 years along with default mechanism

awarded to the petitioners is reduced to the period of sentence already undergone by him.

- ii The sentence of fine of total amount of Rs.2000/- (Rs. 500/- for offence under which the petitioner has been convicted) imposed upon the petitioner by the learned trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the increased 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 petitioners shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

01.02.2024
Ajay Goswami

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