

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 341 of 2011

Harchand Singh @Chand
.....Petitioner

Versus

State of Punjab
.....Respondent

Criminal Revision No. 564 of 2011

Amarjit Singh
.....Petitioner

Versus

State of Punjab
.....Respondent

Date of Decision: January 19, 2024

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manvinder Singh, Advocate
for the petitioner(s)

Mr. Sandeep Kumar, DAG, Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. This common order shall dispose of both the above-mentioned petitions as they arise out of the same factual matrix.
2. The instant revision petitions have been preferred against the judgment dated 01.02.2011 passed by learned Additional Sessions Judge, Ferozpur upholding judgment of conviction and order of sentence dated 11.03.2010 passed by learned Sub Divisional Judicial Magistrate, Abohar in FIR

No. 102 dated 25.06.2002 under Section 326, 324, 323 and 109 of the IPC. The petitioners were sentenced as under:-

Petitioner	Under Section	Sentence
Harchand Singh @ Chand	326/34 IPC	RI for 2 years with a fine of Rs. 1000/- in default of which RI for 15 days
	325/34 IPC	RI for 1 year and fine of Rs. 1000/- in default of which RI for 15 days
	323/34 IPC	RI for 6 months
Amarjit Singh	326/34 IPC	RI for 2 years with a fine of Rs. 1000/- in default of which RI for 15 days
	325/34 IPC	RI for 1 year and fine of Rs. 1000/- in default of which RI for 15 days
	323/34	RI for 6 months

FACTUAL BACKGROUND

2. Briefly, the facts are that on 24.06.2002, the petitioners-accused attacked the complainant-Ranjit Singh when he was waiting for his bus along with his sister Iqbal Kaur. Petitioner-Harchand Singh was armed with a gandasa and gave a blow on right arm and on the backside of the head of the complainant. Petitioner-Amarjit Singh was armed with a takua and gave a blow on the right arm of the complainant. The accused was nurturing a grudge against the complainant as they had a joint plot which the accused wanted to sell but the sale was being resisted by the complainant.
3. The prosecution examined as many as six witnesses to establish its case. The respective statements of the accused under Section 313 of the Cr.P.C. were recorded where they denied all the incriminating evidence put to them and claimed false implication and examined three witnesses in their defence.
4. On assessing the material available on record, the learned trial Court vide judgment and dated 11.03.2010 convicted and sentenced the petitioners-

accused as mentioned above. Aggrieved by the judgment of conviction, the petitioners-accused preferred an appeal before the learned lower Appellate Court which was dismissed vide judgment dated 01.02.2011.

CONTENTIONS

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 11.03.2010 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioners as Harchand Singh @ Chand has already undergone a period of 24 days of custody while Amarjit Singh has already undergone a period of 2 months 26 days of custody. He further submits that the sentence of petitioner-Harchand Singh was suspended by this Court vide order dated 21.02.2011 and the sentence of petitioner-Amarjit Singh was suspended by this Court vide order dated 21.04.2011. Since the suspension of their sentence, they have not been involved in any other criminal activity. Furthermore, no other case is pending against them. Learned counsel further submits that the petitioners have reformed and intend to live their life as law-abiding citizens.

6. Per contra, learned State counsel opposes the prayer of the petitioners 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 vs. 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 realize 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.

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

Petitioner- Harchand Singh:

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	01.02.2011 to 25.02.2011	24 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	01.02.2011 to 25.02.2011	24 days
5.	Actual undergone period	01.02.2011 to 25.02.2011	24 days
6.	Earned remission	-	-
7.	Total sentence including remission	-	24 days

Petitioner- Amarjit Singh:

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	01.02.2011 to 28.04.2011	2 months 26 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	01.02.2011 to 28.04.2011	2 months 26 days
5.	Actual undergone period	01.02.2011 to 28.04.2011	2 months 26 days
6.	Earned remission	-	4 days
7.	Total sentence including remission	-	3 months

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

CONCLUSION

12. The FIR in the present case was instituted on 25.06.2002. Petitioners have been facing protracted proceedings for about 22 years and are not involved in any other criminal activity after their conviction in the present case and during the pendency of the present revision petitions. Since their conviction, petitioners have grown into a law-abiding citizen and desire to live a peaceful life. As per their custody certificates, there are no other criminal cases pending against petitioner-Harchand Singh while one FIR under Section 13A of Public Gambling Act, 1867 is pending against petitioner-Amarjit Singh, in which he has been granted the concession of bail. Out of the total sentence awarded of 2 years, Harchand Singh @ Chand has already undergone a period of 24 days of custody while Amarjit Singh has already undergone a period of 2 months 26 days of custody. 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 petitioners is reduced to the period already undergone by them.

13. Consequently, judgment dated 01.02.2011 passed by learned Additional Sessions Judge, Ferozpur, confirming the conviction of the petitioners is upheld, however, the order of sentence dated 11.03.2010 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 them. Consequently, the present revision petitions are disposed of in the following terms:-

(i) The judgment dated 01.02.2011 passed by the Additional Sessions Judge, Ferozpur confirming the conviction of the petitioner is upheld, however, the order of sentence dated 11.03.2010 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 them.

(ii) The sentence of fine of an amount of Rs.1000/- imposed upon the petitioners by the learned trial Court is increased to Rs.10,000/- each. The petitioners are 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 petitioners 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 revision petitions are partially allowed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

January 19, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No