



	undergo for 01 month.
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3. The brief facts leading to the filing of the instant petition are that the instant case was registered on the statement of Joginder Kaur wife of Jarnail Lal R/o Shaheeda Wala Gurudwara near PS Mallanwala, District Ferozepur. She stated that she is working as sweeper in the office of Punjab Home Guard, Ferozepur. On 23.05.2005, after her duty, she proceeded towards Mallanwala by train No.12-JF, they proceeded from Ferozepur at 5:25 PM, two Sikh gentlemen were sitting on her seat, when train proceeded and then on the way the aforesaid two persons started indecency with her, out of them, one was sitting on the front seat and touched her body, to whom, she stopped whereas other person started touching her body, to whom, she also stopped. In the meanwhile, the train reached at Mallanwala Station, where she was standing to step down from the train, but one of the accused-petitioner restrained her from moving by raising her leg and also started using filthy language with her, to whom she stopped, but in the meanwhile, the train again proceeded and on the way, both the petitioners/accused entangled her and caused injuries on her person by fist blow and slaps and she was escaped from the clutches of the accused/petitioners by other passengers going in the said train. She gave her statement and on enquiry made by HC Sukhwinder Singh, both the accused/petitioners told their names Lakhmir Singh and Balvir Singh resident of Jalandhar. Her statement was recorded and read over to her, after admitting the same, she put her signatures thereon and underneath statement of complainant, Investigating Officer made his endorsement and ruqa was sent to Police Station for registration of the case, whereupon formal FIR against the accused was registered U/s 354, 323, 34 IPC and 145 of Indian Railway Act.

Both the accused/petitioners were arrested in this case, arrest memo and



personal search memo of both the accused/petitioners was also prepared. Statements of other witnesses also recorded. After completion of investigation and other formalities, report under Section 173 Cr.P.C forwarded by SHO to Illaqa Magistrate.

4. Petitioner No.1 was convicted vide judgment dated 03.05.2012 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 29.07.2013.

5. Learned counsel for petitioner No.1 contends that he is not assailing the impugned judgment of conviction dated 03.05.2012 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 05 months and 06 days.

6. Per contra, learned State counsel opposes the prayer of 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 also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency. Learned State counsel further submits that petitioner No.1 is also involved in one more case.

7. I have heard learned counsel for the parties and perused the record with their able assistance. In view of the above, proceedings qua petitioner No.2 stand abated.

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 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.

9. 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 petitioner No.1 has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

10. The FIR in the present case was lodged on 23.05.2005 and petitioner No.1 has been suffering the agony of protracted trial for more than last 19 years. 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, has undergone actual sentence of 04 months and 20 days out of total sentence



of 02 years, in the instant case.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to petitioner No.1 is reduced to the period already undergone by him.

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

- (i) The judgment dated 29.07.2013 passed by the learned Sessions Judge, Ferozepur, affirming the judgment of conviction is upheld, however, the order of sentence dated 03.05.2012 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to petitioner No.1 is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of **Rs.4,500/-** imposed upon petitioner No.1 by the trial Court is increased to Rs.10,000/-. 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, petitioner No.1 shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

July 24, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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