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Model School Naya Gaon where she was working as peon. On 1.6.2009, summer vacation started and school was closed for one month. Accused Rajinder Notial, Vice Principal of the school had called her daughter Kajal and other children for computer class to be held on 4.6.2009. At about 12.00 noon, when complainant came back to her home, her daughter told her that accused took her to a separate room and closed the door. He took off her salwar, touches on her breasts, kissed on her mouth cheeks and did other obscene acts. On being enquired by complainant, accused threatened to kill her and stated that he would not repeat it. On 1.8.2009, complainant's daughter refused to go to school. On being asked, she told the complainant that on 24.7.2009, after school hours, accused again took her into a room, closed the door and repeated the obscene acts as he had done on 4.6.2009 and also threatened to kill her if she disclosed about the incident to anyone. Complainant went to Police Station with her brother-in-law Jai Pal for getting FIR registered. On her complaint, FIR was registered against accused under sections 354, 342 & 506 IPC. Inquiry was initiated. Rough site plan was prepared. Statements of witnesses were recorded under section 161 Cr.P.C, 1973. Accused was arrested and his personal search was conducted. On completion of investigation challan was presented against accused.

3. On assessing all the material available on the record, the petitioner was convicted vide judgment dated 16.09.2023 by learned JMIC, Mohali. Aggrieved by the same, the petitioner preferred an appeal, which was dismissed by learned lower Appellate Court vide judgment dated 06.07.2015.

4. Learned counsel (*amicus curiae*) *inter alia* contends that there is a delay of 28 days in reporting the matter to the jurisdictional police authorities and blade

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facts to create a serious doubts on the integrity of the case set up by the prosecutrix and admittedly there was a previous enmity between the petitioner and the complainant, who is mother of the victim-prosecutrix and a perusal of Annexure P-1 indicates that there is a stark contradiction between the statements made by the prosecutrix at different stages and the prosecutrix while appearing as prosecution witness has admitted that she has been tutored by the complainant.

5. *Per contra*, learned State counsel opposes the prayer of petitioner as the learned JMIC, Mohali has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the same has also been upheld by the learned lower Appellate Court. As such, the petitioner does not merit any leniency.

6. I have heard learned counsel for the parties and perused the record with their 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 vs. State of AP***

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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.

9. The FIR in the present case was registered on 01.08.2009 and petitioner has been suffering the agony of protracted trial for more than last 15 years. Since his conviction, petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he has undergone actual sentence of 08 months and 11 days out of rigorous imprisonment of two years awarded to him, 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 petitioner is reduced to the period already undergone by him.

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

(i) The judgment dated 06.07.2015 passed by learned Additional Sessions Judge, Mohali affirming the judgment of conviction dated 16.09.2013 passed by learned JMIC, Mohali is upheld, however, the order of sentence dated 16.09.2013 is modified to the extent that substantive sentence of rigorous

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imprisonment for 02 years awarded to the petitioner is reduced to the period of sentence already undergone by him and a fine of Rs. 5,000/- is imposed upon him.

(ii) 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 rigorous imprisonment for 15 days.

12. High Court Legal Services Committee is directed to pay remuneration to *amicus curiae* as per rules.

03.12.2024*renubala***(HARPREET SINGH BRAR)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No