



and was intoxicated. He started misbehaving with the daughter of the complainant and clung her. She saved herself hardly and the petitioner ran away from the spot. Petitioner also gave threat of life to daughter of the complainant. Hence, the FIR (supra) was registered against the petitioner.

4. The petitioner was convicted vide judgment dated 10.07.2015 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 18.09.2015.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 10.07.2015 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. He has undergone a total period of 01 month and 17 days and is not involved in any other case.

6. *Per contra*, learned State counsel produces the custody certificate of the petitioner and 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 also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency.

7. I have heard learned counsel for the parties and perused the record 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 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 the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The FIR in the present case was lodged on 14.07.2011 and the petitioner has been suffering the agony of protracted trial for last about 13 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his custody certificate, Petitioner is involved in one more case and has undergone total sentence of 01 month and 17 days, 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 the petitioner is reduced to the period already undergone by him.

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

(i) The judgment dated 18.09.2015 passed by the learned Sessions Judge, Jhajjar, affirming the judgment of conviction is upheld, however, the order of sentence dated 13.07.2015 is modified to the extent that the sentence of simple imprisonment for 01 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.10,000/- upon the petitioner.

(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 one month.

November 26, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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