

CRR-3966-2015 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3966-2015 (O&M)

Date of decision: 29.08.2024

KRISHAN CHAND

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Angrej Singh, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 24.09.2015 passed by learned Additional Sessions Judge, Ludhiana upholding the judgment of conviction and order of quantum of sentence dated 24.05.2013 passed by learned Judicial Magistrate Ist Class, Ludhiana in case FIR No. 326 dated 29.10.2005 registered at Police Station Payal District Ludhiana, vide which the petitioner was sentenced as under:

Sr No.	Name of petitioner	Conviction under Sections	Sentence awarded	Fine imposed
1.	Kishan Chand	452 of Indian Penal Code	Rigorous imprisonment for two years	Rs. 500/- and in default of payment of fine, further awarded rigorous imprisonment for one month
		354 of Indian Penal Code	Rigorous imprisonment for one year	Rs. 500/- and in default of payment of fine, further awarded rigorous imprisonment for one month

2. The prosecution story, in brief, is that on 29.10.2005 ASI Ranjit Singh alongwith some other police officials was present at Bus Stand Payal in

**CRR-3966-2015 (O&M)****2**

connection with patrolling duty where complainant Karamjit Kaur moved an application before him alleging therein to the effect that her sister-in-law namely Amandeep Kaur was married to one Jarnail Singh and Jarnail Singh was not on good terms with her sister-in-law. Accused-petitioner Kishan Chand approached the complainant on the pretext that he can get the matter comprised and he took Rs.53,000/- for the same. However, the compromise could not be effected and complainant demanded back the money. It has been alleged that instead of returning the money, the accused-petitioner started abusing the complainant. On 28.10.2005 when complainant was doing domestic work at her home, then at about 8.00-9.00 PM, someone knocked at her door and on opening the door, complainant saw that a Maruti Car was standing near the gate and 3-4 persons were sitting in the car. Accused-Kishan Chand got down from the car, forcibly entered the house and started hurling filthy abuses on the complainant and tore shirt of the complainant. No male member was present in the house at that time. It has further been alleged that accused stated that he will not return the money. FIR(supra) was registered on the basis of aforesaid allegations.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 24.05.2013 on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 07 months and 30 days.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which

**CRR-3966-2015 (O&M)****3**

has also been upheld by the learned lower Appellant Court and as such, he does not deserve any leniency.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. In **Deo Narain Mandal v. State 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.



7. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and submits that the said judgment 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 quantum of sentence.

8. The FIR in the present case was filed on 29.10.2005 and the petitioner has been suffering the agony of trial since the last 19 years. As per the custody certificate, the petitioner has undergone actual sentence of 07 months and 30 days out of substantive sentence of 02 years and he is not involved in any other case.

9. 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.

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

(i) The judgment dated 24.09.2015 passed by the learned Additional Sessions Judge, Ludhiana upholding the judgment of conviction is upheld, however, the order of sentence dated 24.05.2013 is modified to the extent that the total sentence of rigorous imprisonment for six months along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 1000/- imposed upon the petitioner is enhanced to Rs. 10,000/-. 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 simple imprisonment for one month.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.
11. Registry is directed to pay the amount of honorarium to the Legal Aid Counsel, as per rules.

August 29, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i) Whether speaking/reasoned

Yes/No

(ii) Whether reportable

Yes/No