

Section 427 IPC	RI 06 months and a fine of Rs.100/-, in default of which RI of 15 days
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2. The prosecution story in brief, is that on 25.04.2010, on receiving information regarding the injuries of Sarabwant Singh, Kulwant Kaur and Abhijot Singh in an accident and their admission in Sacred Heart Hospital, ASI Sukhbir Singh went to hospital, where concerned doctor has informed him that patient Sarabjit Singh has left the hospital against medical advice and patients Kulwant Kaur and Abhijot Singh were discharged after giving first aid to them. On 27.04.2010, HC Kulbir Singh was present at police station, where he was informed by concerned MHC that legal heirs of Sarabjit Singh gave him information regarding his admission in Joshi Hospital, upon which HC Kulbir Singh went to Joshi Hospital and got recorded statement of Sarabjit Singh to the effect that he is doing the private job of Administrative Operation Manager at Kapsons Mall, Mall Road, Amritsar. On 25.04.2010 he was going to his work from his home at Jalandhar to Amritsar in his Maruti Car No. PB08-3399. At about 10.15 AM when he reached near ITBP complex then one Swift car bearing No. PB08-AH-Temp-9233 came from Kartarpur side in a very high speed, driving by one Sardar driver, later on came to know as Balwinder Singh (petitioner herein) has struck his car into car of complainant, due to which, his car turned towards Jalandhar side. He has received serious injuries. He has also received multiple injuries on his left leg and other parts of body and his car was also damaged. Several people gathered at the spot, pulled him from the car. The officials who were on patrolling duty on the Highway got admitted him in Sacred Heart Hospital, from where his family members got admitted him at Joshi Hospital. On his statement, ruqa was sent for the formal registration of FIR. During investigation, investigating officer prepared site plan of the spot, recorded statement of witnesses, took the offending car bearing No.PB08-AH-

Temp-9233 and car bearing No.PB08-3399 along with its papers in its possession and got the same mechanically examined. Petitioner was arrested in the present case and on completion of formalities of investigation, report under Section 173 Cr.P.C., was prepared and forwarded to the Court.

3. The petitioner was convicted vide judgement dated 07.10.2015 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 14.01.2016.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 07.10.2015 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner as he has already undergone a period of 19 days.

5. Per contra, learned State counsel 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 Appellant Court and as such, he does not deserve 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 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.

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. 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.

9. The FIR in the present case was lodged on 27.04.2010 and the petitioner has been suffering the agony of protracted trial since the last 14 years. Since his conviction, the 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 19 days out of total sentence of 01 year 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 the petitioner is reduced to the period already undergone by him.

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

- (i) The judgment dated 14.01.2016 passed by the learned Additional Sessions Judge, Jalandhar, affirming the judgment of conviction is upheld, however, the order of sentence dated 07.10.2015 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs.500/- imposed upon the petitioner by the trial Court is increased to 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 rigorous imprisonment for one month.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

March 19, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No