

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

235

CRR-5021-2015

Date of Decision: March 05, 2024

Sonu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vinay Puri, Advocate for the petitioner .

Mr. Rishab Singla, AAG Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This revision has been preferred against the judgment dated 28.07.2015 passed by learned Additional Sessions Judge, Jalandhar vide which judgment of conviction and order of quantum of sentence dated 04.12.2014 passed by the learned Judicial Magistrate First Class, Jalandhar in FIR, bearing No.40 dated 26.05.2010 under Sections 420, 465, 467, 468, 471 of the IPC registered at Police Station New Barandari, Jalandhar, was upheld. The petitioner was sentenced as under: -

Offence	Sentence
Section 420 IPC	Rigorous imprisonment for 2 years and a fine of Rs. 1000/-, in default of which simple imprisonment for 3 months.
Section 465 IPC	Rigorous imprisonment for 6 months and a fine of Rs. 500/-, in default of which simple imprisonment for 1 month.
Section 467 IPC	Rigorous imprisonment for 2 years and a fine of Rs. 2000/-, in default of which simple imprisonment for 6 months.
Section 468 IPC	Rigorous imprisonment for 1 year and a fine of Rs. 1000/-, in default of which simple imprisonment for 3 months.

Section 471 IPC	Rigorous imprisonment for 6 months and a fine of Rs. 500/-, in default of which simple imprisonment for 1 month.
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FACTUAL BACKGROUND

2. The facts, in brief, are that the FIR was registered by order dated 11.01.2010 passed by learned Additional Sessions Judge, Jalandhar, in the case titled, “State v. Maya Babu”, according to which, the petitioner-accused furnished a forged and fabricated *jamabandi* in Court, at the time of furnishing bail bonds. After receiving a report from the District Collector that no person by the name of Sonu, son of Swarna, was living at the address mentioned and that the *jambandi* attached with the surety bonds was forged and fabricated, the report of the Collector, along with the affidavit filed by surety, copy of the *jamabandi*, copy of the identity card of surety and attesting witness, and a copy of the Ration Card was sent to the Senior Superintendent of Police, Jalandhar. Resultantly, a case was registered against the petitioner and the FIR was lodged.

3. On being charged under Sections 420, 465, 467, 468, 471 of the IPC by the learned Judicial Magistrate First Class, Jalandhar, the petitioner pleaded not guilty and claimed trial.

4. The prosecution examined as many as 07 witnesses to prove its case. Thereafter, prosecution failed to conclude its evidence despite availing numerous opportunities and prosecution evidence was closed vide order dated 22.09.2014. Subsequently, the statement of the accused under Section 313 of Code of Criminal Procedure was recorded, wherein the petitioner pleaded false implication, however, no witness was examined in order to prove the innocence of the petitioner.

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5. After taking into account all the material on record, the petitioner was convicted by the learned trial Court vide judgment dated 04.12.2014. Aggrieved by the same, the petitioner preferred an appeal before the Lower Appellate Court, which was dismissed vide judgment dated 28.07.2015.

CONTENTIONS

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 04.12.2014 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 01 year, 02 months and 04 days in custody. Furthermore, no other case is pending against him.

6. Learned counsel for the petitioner further submits that the petitioner has reformed and intends to live his life as a law-abiding citizen.

7. 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 been upheld by the learned Lower Appellate Court, and as such, he does not deserve any leniency.

OBSERVATIONS AND ANALYSIS

8. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

9. 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

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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 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. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

10. As per the custody certificate produced by the learned State counsel, details of custody period of the petitioner are tabulated as under: -

Sr No.	Particulars	Period	Duration
1.	Custody under trial	04/10/2012 to 17/01/2013	3 months and 15 days
2.	Custody after conviction	28/07/2015 to 16/06/2016	10 months and 24 days
3.	Interim bail	-	-

4.	Actual custody period after conviction	28/07/2015 to 16/06/2016	10 months and 24 days
5.	Actual undergone period	04/10/2012 to 17/01/2013 and 28/07/2015 to 16/06/2016	1 year, 2 months and 04 days
6.	Earned remission	-	-
7.	Total sentence including remission	04/10/2012 to 17/01/2013 and 28/07/2015 to 16/06/2016	1 year, 2 months and 04 days

11. A perusal of the judgment of conviction passed by the trial Court and the Lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. Moreover, counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

CONCLUSION

12. The FIR in the present case was lodged on 26.05.2010 and the case was instituted in the trial Court on 27.10.2012. The petitioner has faced the agony of a protracted trial, which has lasted for approximately 11 years. Since his conviction in the present case, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, there are no other criminal cases pending against him. Out of the total sentence of 02 years under Sections 420, 467 IPC, 01 year under Section 468 IPC, and 6 months under Sections 465, 471 IPC, the petitioner has undergone actual sentence of 01 year, 02 months and 04 days. 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.

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

- (i) The judgment dated 28.07.2015 passed by the learned Additional Sessions Judge, Jalandhar confirming the conviction of the petitioner is upheld, however, the order of sentence dated 04.12.2014 is modified to the extent that the sentence of rigorous imprisonment for 02 years under Sections 420, 467 IPC, 01 year under Section 468 IPC, and 06 months under Sections 465, 471 IPC, (to run concurrently) 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.5000/- imposed upon the petitioner, by the trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the increased 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.

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

(HARPREET SINGH BRAR)
JUDGE

March 05, 2024
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |