

of Rs. 2,70,000/- and the corresponding mutation was entered. Pargat Singh died on 22.08.2006 and the complainant inherited his property. However, on 03.09.2007, Ranbir Singh, Patwari informed him that the land in question has been delivered to PSB Finance and Investment Limited, on the basis of decree dated 13.01.1997. The petitioner-accused had executed a mortgage deed dated 25.05.1994, with the said firm to avail a loan of Rs.1,36,500/- and since he defaulted in repayment of the same, the said land was delivered to PSB Finance and Investment Limited.

3. On finding a *prima facie*, charges under Sections 420, 467, 468, 471 of IPC were framed against the petitioner, to which, he pleaded not guilty and claimed trial. The prosecution examined 10 witnesses to prove its case. All incriminating evidence was put to the petitioner-accused in his statement recorded under Section 313 of the Cr.P.C., wherein, he pleaded false implication and examined 01 witness, in his defence.

4. On assessing all the material available on record, the petitioner was convicted by the learned trial Court, vide judgment dated 06.12.2013. Aggrieved by the same, the petitioner approached the learned lower Appellate Court, wherein, the appeal was dismissed vide judgment dated 04.11.2016. The sentence of the petitioner was suspended by this Court vide order dated 08.05.2017.

CONTENTIONS

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 06.12.2013, on merits and restricts his prayer to modification of the order of quantum of sentence dated 09.12.2013, to that of the sentence already undergone by the petitioner, as he has already undergone a period of 6 months, 23 days of custody.

6. 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 Appellate Court and as such, he does not deserve any leniency.

OBSERVATIONS AND ANALYSIS

7. I have heard learned counsel for the parties and perused the paper-book 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. 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	31.10.2007 to 15.11.2007	16 days
2.	Custody after conviction	04.11.2016 to 10.05.2017	6 months 7 days
3.	Interim bail	-	-
4.	Actual custody period after conviction		6 months 7 days
5.	Actual undergone period		6 months 23 days
6.	Earned remission		-
7.	Total sentence including remission		6 months 23 days

10. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in their finding and the same are 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.

CONCLUSION

11. The FIR in the present case was lodged on 20.09.2007 and the petitioner has been suffering the agony of protracted trial since the last 16 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, out of the total sentence of 2 years in this case, he has undergone actual sentence of 6 months 23 days. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of simple imprisonment of 2 years awarded to the petitioner is reduced to the period already undergone by him.

