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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4624-2016
Date of Decision: January 29, 2024

Tarsem Singh and another
.....Petitioners

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikasdeep Singh, Advocate for
Mr. Vikas Gupta, Advocate
for the petitioners

Mr. Sandeep Kumar, DAG Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred against the judgment dated 13.09.2016 passed by learned Sessions Judge, Tarn Taran vide which judgment of conviction and order of quantum of sentence dated 21.02.2015 passed by Judicial Magistrate 1 st Class, Tarn Taran in FIR No. 155 dated 20.07.2008 under Sections 379, 411, 468, 471 of the IPC registered at Police Station City, Tarn Taran were upheld. The petitioners were sentenced as under: -

	Offence	Sentence
1. Tarsem Singh	Section 379 IPC	Rigorous imprisonment for 2 years and a fine of Rs. 2000/-, in default of which simple imprisonment of 2 months.
	Section 468 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 3000/-, in default of which simple imprisonment of 3 months.
	Section 471 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 3000/-, in default of which simple imprisonment of 3 months.

2. Kashmir Singh	Section 379 IPC	Rigorous imprisonment for 2 years and a fine of Rs. 2000/-, in default of which simple imprisonment of 2 months.
	Section 468 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 3000/-, in default of which simple imprisonment of 3 months.
	Section 471 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 3000/-, in default of which simple imprisonment of 3 months.

FACTUAL BACKGROUND

2. The facts, in brief, are that a police party led by ASI Balwant Singh was on patrolling duty when the police personnel received a tip that the petitioners along with the co-accused person namely Mangal Singh were traveling in a stolen truck with the intention to sell it at Tarn Taran. In order to apprehend them, the police blockaded the road. A truck bearing registration no. GJ-18-U-6859 was intercepted and when the police party got the truck to halt, petitioner No. 1 along with the co-accused person ran away from the spot. However, the police managed to nab petitioner No. 2 who disclosed the names of the other two persons i.e., petitioner No. 1 and the co-accused. When petitioner No. 2 was asked to produce the documents of the truck, he revealed that it was a stolen truck which they had stolen from Pathankot. Accordingly, FIR was registered against the petitioners and the co-accused and the truck was taken into police possession during investigation.

3. The prosecution examined as many as 7 witnesses to prove its case. Since the prosecution failed to conclude its evidence despite availing several opportunities, evidence of the prosecution was closed by order by the learned trial Court. In their statements recorded under Section 313 Cr.P.C. the petitioners pleaded false implication and claimed innocence, however, no

evidence was led by them in their defence.

4. On the basis of the evidence led, the petitioners were convicted by the learned trial Court vide judgment dated 21.02.2015. Aggrieved by the same, the petitioners preferred an appeal before the Lower Appellate Court, which was dismissed vide judgment dated 13.09.2016.

CONTENTIONS

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 21.02.2015 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioners as petitioner No. 1 and petitioner No. 2 have already undergone a period of 7 months 4 days and 7 months 2 days of custody respectively. Furthermore, no other case is pending against both the petitioners.

6. Learned counsel for the petitioners further submits that the petitioners have reformed and intend to live their lives as law-abiding citizens.

7. Per contra, learned State counsel opposes the prayer of the petitioners 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, they do 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 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 petitioners are tabulated as under: -

Petitioner No. 1: Tarsem Singh

Sr No.	Particulars	Period	Duration
1.	Custody under trial	29/07/2008 to 31/07/2008	2 days

2.	Custody after conviction	13/09/2016 to 24/03/2017	6 months 12 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	13/09/2016 to 24/03/2017	6 months 12 days
5.	Actual undergone period	29/07/2008 to 31/07/2008 and 13/09/2016 to 24/03/2017	6 months 14 days
6.	Earned remission		20 days
7.	Total sentence including remission	29/07/2008 to 31/07/2008 and 13/09/2016 to 24/03/2017	7 months 4 days

Petitioner No. 2: Kashmir Singh

Sr No.	Particulars	Period	Duration
1.	Custody under trial	22/07/2008 to 23/07/2008	1 days
2.	Custody after conviction	13/09/2016 to 23/03/2017	6 months 11 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	13/09/2016 to 23/03/2017	6 months 11 days
5.	Actual undergone period	22/07/2008 to 23/07/2008 and 13/09/2016 to 23/03/2017	6 months 12 days
6.	Earned remission		20 days
7.	Total sentence including remission	22/07/2008 to 23/07/2008 and 13/09/2016 to 23/03/2017	7 months 2 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. Counsel

for the petitioners 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 20.07.2008 and since their conviction, the petitioners have grown into law-abiding citizens and desire to live peacefully. Further, the petitioners have faced the agony of a protracted trial which has lasted for approximately 15 years now. They are not involved in any other criminal activity since their conviction in the present case and during the pendency of the present revision. As per their custody certificates, there are no other criminal cases pending against them. Out of the total sentence of three years under Sections 468 and 471 IPC and two years under Section 379 IPC, petitioner No. 1 and petitioner No. 2 have already undergone a period of 7 months 4 days and 7 months 2 days of custody respectively. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of rigorous imprisonment for three years under Sections 468 and 471 IPC and two years under Section 379 IPC awarded to the petitioners is reduced to the period already undergone by them.

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

(i) The judgment dated 13.09.2016 passed by the learned Sessions Judge, Tarn Taran confirming the conviction of the petitioners is upheld, however, the order of sentence dated 21.02.2015 is modified to the extent that the sentence of rigorous imprisonment for 3 years and 2 years (to run concurrently) awarded to the petitioners is reduced to the period of sentence already undergone by them.

(ii) The sentence of fine of an amount of Rs. 8000/- each imposed upon the petitioners by the trial Court is increased to Rs.10,000/-.

The petitioners are 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 petitioners 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

January 29, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No