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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 12.03.2024

1. CRR-1786-2017

DAVINDER SINGH @ BITTU
...PETITIONER

VERSUS

STATE OF PUNJAB
...RESPONDENT

2. CRR-1864-2017

SIMARJIT SINGH @ MANGA
...PETITIONER

V/S

STATE OF PUNJAB
...RESPONDENT

3. CRR-464-2019

LAKHVIR SINGH @ PALLA
...PETITIONER

V/S

STATE OF PUNJAB
...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. GauravRana, Advocate
for the petitioner(s) in CRR-1786-2017
& CRR-1864-2017.

Mr. DPS Bajwa, Advocate
for petitioner in CRR-464-2019.

Mr. Sandeep Kumar, DAG, Punjab

HARPREET SINGH BRAR, J. (ORAL)

This common judgment of mine shall dispose of above captioned three criminal revisions as they arise out of the common FIR. For the sake of brevity, facts are borrowed from *CRR-1786 of 2017* titled as *Davinder Singh @ Bittu vs. State of Punjab*.

2. These revisions have been preferred against the 2 judgments dated 22.02.2017 and 25.10.2017 passed by learned Additional Sessions Judge, Ludhiana whereby the judgment of conviction and order of sentence dated 21.08.2014 passed by learned Judicial Magistrate 1st Class, Ludhiana in FIR, bearing no. 271 dated 10.10.2008 under Sections 452, 323, 506, 354, 34 of the IPC registered at Police Station Focal Point, was upheld. The petitioners were sentenced as under: -

Petitioner	Offence under Section	Sentence
Davinder Singh	452 IPC	SI 2 years and a fine of Rs. 500/-, in default of which SI of 30 days
	323 IPC	SI 1 year and fine of Rs. 500/-, in default of which SI of 30 days
	506 IPC	SI 1 year and fine of Rs. 500/-, in default of which SI of 30 days
Simarjit Singh	452 IPC	SI 2 years and a fine of Rs. 500/-, in default of which SI of 30 days
	323 IPC	SI 1 year and fine of Rs. 500/-, in default of which SI of 30 days
	506 IPC	SI 1 year and fine of Rs. 500/-, in default of which SI of 30 days
Lakhvir Singh	452 IPC	SI 2 years and a fine of Rs. 500/-, in default of which SI of 30 days
	323 IPC	SI 1 year and fine of Rs. 500/-, in default of which SI of 30 days
	506 IPC	SI 1 year and fine of Rs. 500/-, in default of which SI of 30 days

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FACTUAL BACKGROUND

2. Briefly, the facts are that on 10.10.2008, ASI Jasvinder Singh, along with other police personnel, was on patrolling duty, when the complainant, namely, Sunita approached them and got her statement recorded. As per her statement, on 09.10.2008 at about 8:00 p.m., the petitioners-accused forcibly entered her house. They were all in an inebriated condition and tried to sexually assault her. She managed to break free from the clutches of the petitioners-accused by rushing to a room and bolting the door shut. However, they managed to break the lock of the door and entered the room. On objecting to their advances, she was physically assaulted. Thereafter, the complainant raised hue and cry and one Darshan Singh, came to the spot and rescued her. While fleeing from the spot, the petitioners threatened the complainant that in case she discloses their identities to anyone, they would kill her. Subsequently, she got herself medically examined at Civil Hospital, Ludhiana and on the basis of her statement the FIR was registered.

3. On finding a *prima facie* case, charges under Sections 452, 323, 354, 506, 34 of IPC were framed against the accused persons, to which, they pleaded not guilty and claimed trial. The prosecution examined as many as 03 witnesses to prove its case. Subsequently, statements of the accused under Section 313 of the Code of Criminal Procedure were recorded, wherein the petitioners pleaded false implication, however, no witness was examined in order to prove their innocence.

4. On assessing all the material available on record, the learned trial Court vide judgment dated 21.06.2014 convicted and sentenced the petitioners-accused as mentioned above. Aggrieved by the judgment of conviction, the

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petitioners-accused preferred an appeal before the learned lower Appellate Court which was dismissed vide judgments dated 22.02.2017 and 25.10.2017.

CONTENTIONS

5. Learned counsel for the petitioners contend that they are not assailing the impugned judgment of conviction dated 21.08.2014 on merits and restricts their prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioners as Davinder Singh has already undergone a period of 05 months and 28 days of custody, Simarjit Singh has undergone a period of 06 months of custody, and Lakhvir Singh has undergone a period of 01 year, 05 months and 24 days of custody. Learned counsel further submit that the petitioners have reformed and intend to live their life as law-abiding citizens.

6. *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

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

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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 of the Hon’ble Supreme Court in **RavadaSasikala 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.

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

(i) Davinder Singh @ Bittu

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	22.02.2017to 19.08.2017	05 months 28 days

3.	Parole availed	-	-
4.	Actual custody period after conviction	22.02.2017 to 19.08.2017	05 months 28 days
5.	Actual undergone period	22.02.2017 to 19.08.2017	05 months 28 days
6.	Earned remission	-	-
7.	Total sentence including remission	22.02.2017 to 19.08.2017	05 months 28 days

(ii) Simarjit Singh @ Manga

Sr No.	Particulars	Period	Duration
1.	Custody under trial	12.10.2008 to 30.10.2008	18 days
2.	Custody after conviction	22.02.2017to 03.08.2017	05 months 12 days
3.	Parole availed	-	-
4.	Actual custody period after conviction	22.02.2017 to 03.08.2017	05 months 12 days
5.	Actual undergone period		06 months
6.	Earned remission	-	-
7.	Total sentence including remission		06 months

(iii) Lakhvir Singh

Sr No.	Particulars	Period	Duration
1.	Custody under trial	21.08.2014 to 07.10.2014	01 month and 17 days
2.	Custody after conviction	25.10.2017to 01.03.2019	01 year, 04 months and 07 days
3.	Parole availed	-	-
4.	Actual custody period after conviction	25.10.2017 to 01.03.2019	01 year, 04 months and 07 days

5.	Actual undergone period		01 year, 05 months and 24 days
6.	Earned remission	-	-
7.	Total sentence including remission		01 year, 05 months and 24 days

10. A perusal of the judgment of conviction passed by the learned trial Court and the learned lower Appellate 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 petitioners have not assailed the judgment of conviction on merits, rather they have restricted their prayer to quantum of sentence qua the petitioners.

CONCLUSION

11. The FIR in the present case was lodged on 10.10.2008. The petitioners have been facing protracted proceedings for more than 16 years and are both Davinder Singh and Lakhvir Singh not involved in any other criminal activity after their conviction in the present case and during the pendency of the present revision. Since their conviction, the petitioners have grown into a law-abiding citizens and desire to live a peaceful life. Out of the total sentence of 2 years under Section 452 IPC, 1 year under Section 323 IPC, and 1 year under Section 506 IPC, Davinder Singh has already undergone a period of 05 months and 28 days of custody, Simarjit Singh has undergone a period of 06 months of custody, and Lakhvir Singh has undergone a period of 01 year, 05 months and 24 days of custody. Accordingly, this Court is of the opinion that it would be in the interest of justice if the sentence awarded to the petitioners is reduced to the period already undergone by them.

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12. Accordingly, the two judgments dated 22.02.2017 and 25.10.2017 passed by learned Additional Sessions Judge, Ludhiana, confirming the conviction of the petitioners are upheld, however, the order of sentence dated 21.08.2014 is modified to the extent that that the sentence awarded to the petitioners is reduced to the period of sentence already undergone by them.

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

- (i) The judgments dated 22.02.2017 and 25.10.2017 passed by the Additional Sessions Judge, Ludhiana confirming the conviction of the petitioners is upheld, however, the order of sentence dated 21.08.2014 is modified to the extent that the sentence of simple imprisonment for 2 years under Section 452 IPC, 1 year under Section 323 IPC, and 1 year under Section 506 IPC, along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.
- (ii) The sentence of fine of a lump sum amount of Rs. 1500/- imposed upon each of petitioners by the learned trial Court is increased to Rs.10,000/- each of the petitioners. The petitioners are 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

petitioners shall be liable to be taken into custody and
made to undergo rigorous imprisonment for one month.

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

March 12, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No