





3. Briefly, the facts of the prosecution story are that the present case was got registered on the basis of statement of Veerpal Kaur to the effect that on 01.06.2013 at about 05:00 p.m., she had gone to a karyana store, Lande Ke to purchase grocery. In the front of the shop Gopi, Manak Singh (petitioners herein) both sons of Mukhtiar Singh alongwith an unknown person were standing. She stated that when she reached outside the shop, petitioner-Gopi uttered words against her character due to which she felt insulted. When she opposed, petitioner-Gopi restrained her and stated that "*Mai Tenu Sachhi Savitri Nu Changi Tarra Pehla To Hi Janda Ha*". Thereafter, petitioner-Gopi held her from her arms and pulled her towards himself. In order to save herself she scuffled with the accused/petitioner, upon which petitioner-Manak Singh held the complainant from her hair. Thereafter, petitioner-Gopi held the complainant from her chest and as a result, the shirt worn by the complainant got torn off from the front. Petitioner-Manak Singh after holding the complainant from hair pushed her on the metalled road, due to which, she suffered injuries. Complainant raised alarm and public gathered at the spot. Her mother Rani also reached the spot and thereafter, accused persons fled away. Thereafter, complainant was got medically examined. On the basis of said statement, case was registered against the accused/petitioners.

4. The petitioners were convicted vide judgment dated 04.02.2016 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 03.06.2017.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction and order of sentence dated 04.02.2016 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. Petitioner No.1 has undergone a total period of 01 year, 02 months and 18 days and petitioner No.2 has undergone a total period of 01 year, 02 months and 03 days and both of them are involved in one more case.

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 also been upheld by the learned lower Appellate Court and as such, they do not deserve any leniency.

7. I have heard learned counsel for the parties and perused the record 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. 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 petitioners has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

10. The FIR in the present case was lodged on 03.06.2013 and the petitioners have been suffering the agony of protracted trial for more than last 10 years. Since their conviction, the petitioners have grown into law-abiding citizens and desire to live a peaceful life. As per their custody certificate, they are involved in one more case and have undergone total sentence of more than 01 year and 02 months, out of total sentence of 02 years, in the instant case.

11. 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.

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

(i) The judgment dated 03.06.2017 passed by the learned Sessions Judge, Moga, affirming the judgment of conviction is upheld, however, the order of sentence dated 04.02.2016 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioners is



reduced to the period of sentence already undergone by them subject to the fine of an amount of Rs.5,000/- each upon both the petitioners.

(ii) 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.

October 03, 2024  
manisha

(HARPREET SINGH BRAR)  
JUDGE

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