

226-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3021-2017
Date of decision: 25.07.2024

ANIL KUMAR AND OTHERS

V/S

STATE OF HARYANA

...PETITIONERS

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dinesh Arora, Advocate
 for the petitioners.

 Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

1. This revision has been preferred against the judgment dated 19.08.2017 passed by learned Additional Sessions Judge, Rohtak, vide which, judgment of conviction dated 15.04.2015 and order of quantum of sentence dated 16.04.2015 passed by learned Chief Judicial Magistrate, Rohtak, in case bearing FIR No.136 dated 06.05.1995 filed under Section 354 of IPC registered at Police Station City, Rohtak, has been upheld. The petitioners were sentenced as under:

Offence	Sentence
354 IPC	RI for 01 year with a fine of Rs.1,000/- each, in default of which, to undergo for 10 days.

2. The brief-facts leading to the filing of the instant petition is that on 6.5.1995, on receipt of complaint moved by Sharda Devi wife of Rajesh Kumar, the Station House Officer, Police Station City, Rohtak had registered the instant FIR. As per the complainant's version, on 1.5.1995, at about 3:30



P.M., she had gone to the house of her elder sister and opened the lock but somebody had caught her from behind. Anil Kumar (petitioner) son of Rajbir (petitioner) and Vinod (petitioner) son of Satya Narain pushed her on the ground and invited others to join them. Krishan (petitioner) son of Babu Ram (petitioner), Rajbir son of Dhanraj and Babu Ram son of Tara Chand (petitioners) came at the spot and torn her clothes. She cried for help. Her sister reached at the spot. On hearing the noise of the complainant, accused/petitioners fled away. She called her husband from the office and they went to Police Station City, Rohtak. After moving an application, they returned to their home. The accused/petitioners asked her husband to compromise the matter but her husband refused. On the following evening, her husband was implicated in a criminal case. She prayed to take appropriate action against the culprits.

3. The petitioners were convicted vide judgment dated 15.04.2015/16.04.2015 by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 19.08.2017.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 15.04.2015/16.04.2015 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 petitioners namely Vinod, Anil Kumar and Rajbir have already undergone a period of 12 days, petitioner Krishan has undergone a period of 11 days and petitioner Rajesh has undergone a period of 06 days and all of them are not involved in any other criminal activity.

5. 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 Appellant Court and as such, they do not deserve any leniency.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. 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.



8. 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.

9. The FIR in the present case was lodged on 06.05.1995 and the petitioners have been suffering the agony of protracted trial for more than last 29 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desires to live a peaceful life. As per their custody certificates, they are not involved in any other case and has undergone actual sentence of 12 days 11 days and 06 days respectively out of total sentence of 01 year, in the instant case.

10. 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.

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

(i) The judgment dated 19.08.2017 passed by the learned Additional Sessions Judge, Rohtak, affirming the judgment of conviction is upheld, however, the order of sentence dated 16.04.2015 is modified to the extent that the sentence of rigorous imprisonment for 01 year 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 an amount of Rs.1,000/- 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.

July 25, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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