

**CRR-32-2017 (O&M)****1****863 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****CRR-32-2017 (O&M)  
Date of Decision: 19.11.2024****RAJ SINGH****.....Petitioner****Versus****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. TPS Makkar, Advocate  
for the petitioner.****Mr. Nitesh Sharma, DAG Punjab.****\*\*\*\*****HARPREET SINGH BRAR, J. (ORAL)**

1. Present revision petition has been preferred by the petitioner against the judgment dated 05.12.2016 passed by learned Additional Sessions Judge, Sri Muktsar Sahib vide which judgment of conviction and order on quantum of sentence dated 29.01.2016 passed by learned Judicial Magistrate Ist Class, Malout, have been upheld, vide which petitioner was convicted under Section 354 of Indian Penal Code and sentenced to undergo rigorous imprisonment for two years and fine of Rs. 500/- was imposed along with default mechanism.

2. Briefly stated, the prosecution story is that on 05.09.2009, on receipt of MLR pertaining to Ratti Ram and Indraaj from PHC Alamwala, ASI Harbans Singh reached PHC Alamwala and sought the written opinion of the Doctor regarding the fitness of the injured for recording statement, who declared the injured, unfit to make statement. Upon reaching police station, ASI made report in the Rapat Roznamcha. Then on 06-09-2009 ASI Harbans Singh alongwith co-officials reached PHC Alamwala for recording the statement of

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the injured and obtained written opinion of the doctor who declared the injured fit to make statement. Then ASI Harbans Singh recorded the statement of Ratti Ram who stated that on 05.09.2009 at about 7.00 pm, he along with Balbir Kumar, Suresh Kumar, Samitri Devi, Banto were coming to their house after doing the labour work. When they reached near the house of Chowkidar Mani Ram, then Raj Singh (petitioner herein) who was under the influence of liquor was coming behind them on bicycle while abusing in the street and struck his cycle against Samitari Devi. When they tried to rescue Samitari Devi, then he tried to run after removing the CHUNI from the head of Samitari Devi and they apprehended him. In the mean-time his son namely Jyoti also came there, who was armed with Gandasi, who gave gandasi blow towards Ratti Ram which hit on the back side of his head from its sharp side and also gave two more Gandasi blow towards him which hit below his right eye and on the lateral aspect of his right leg from its reverse side. They raised hue and cry. Then Indraj and Lachhman Dass came and Jassa Singh armed with Sota, Sarwinder Singh armed with Dang, Jonny, Rinku armed with sota alongwith four/five unknown persons, who were also armed with *sotas* came there and Jonny raised lalkara to caught hold Indraj and teach him a lesson for helping Ratti Ram etc. Then Jassa Singh gave sota blow towards Indraj which hit below his right eye and the remaining Rinku and Salwinder and four/five unidentified persons gave danda and Sota blows to Indraj. Then people gathered there and all these persons ran away from the spot alongwith their respective weapons.



3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 05.12.2016 passed by learned Additional Sessions Judge, Sri Muktsar Sahib on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 04 months and 05 days and not involved in any other case.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that 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. However, he could not controvert the fact that petitioner is not involved in any other case.

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

6. 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.

7. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and submits that the said judgment is 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 modification quantum of sentence.

8. Perusal of record indicates that FIR(supra) was registered in the year 2009 and the amendment in Section 354 of Indian Penal Code was carried out in the year 2013. As such, there is no embargo in modification of the sentence to that of already undergone by the petitioner. The petitioner has been suffering the agony of trial since the last 15 years. As per the custody certificate, the petitioner has undergone total sentence of 04 months and 05 days out of total sentence of two years and he is not involved in any other case.

9. 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.

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

(i) The judgment dated 05.12.2016 passed by the learned Additional Sessions Judge, Sri Muktsar Sahib upholding the judgment of conviction is upheld, however, the order of sentence dated 29.01.2016 is modified to the extent that the total sentence of rigorous imprisonment for two years awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 500/- imposed upon the petitioner is enhanced to Rs. 10,000/-. The petitioner is 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 petitioner shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

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

(HARPREET SINGH BRAR)  
JUDGE

19.11.2024  
Ajay Goswami

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |