

2. In brief, version of the prosecution is that petitioner-Om Parkash was appointed as Driver no.399 in CTU, vide office order bearing no.6932/EAD/HOD/CTU/2010 dated 15.07.2010. His appointment was subject to verification of documents submitted by him. His matriculation certificate was sent to Director of National Institute of Open Schooling, New Delhi for verification. The said authority informed the office of GM, CTU that the matriculation certificate of Om Parkash (petitioner) bearing Sr. No.A/05 143583, AI no.050106 dated 18.06.2006/ original mark sheet bearing old number 05010642243 was not issued by the said institute and therefore, was not genuine. A complaint was moved by GM, CTU on the basis of which FIR was registered. The petitioner was arrested. The documents were taken into police possession. The IO recorded the statements of witnesses under section 161 of Criminal Procedure Code, 1973 (hereinafter referred to as Cr.P.C) and after completion of the investigation challan was presented before the court.

3. The petitioner was convicted vide judgement dated 05.11.2015 by the learned trial Court which has also been upheld by lower Appellate Court vide judgment dated 21.11.2017.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 05.11.2015 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner, as he has already undergone a period of 01 year, 08 months and 04 days and is not involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioner 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, he does 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

petitioner 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 19.11.2012 and the petitioner has been suffering the agony of protracted trial for more than last 11 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone actual sentence of 01 year, 02 months and 16 days out of total sentence of 03 years, 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/appellant is reduced to the period already undergone by him.

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

(i) The judgment dated 21.11.2017 passed by the learned Additional Sessions Judge, Chandigarh affirming the judgment of conviction is upheld, however, the order of sentence dated 05.11.2015 is modified to the extent that the sentence of rigorous imprisonment for 03 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of Rs.500/- imposed upon the petitioner by the trial Court is increased 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 rigorous imprisonment for one month.

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

March 20, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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