

Khalil and Jahangir. He stopped the tanker there. Khalil and Jahangir stopped him from parking the tanker there. Thereafter, Jahangir, Khalil, Aslam, Irshad, Mustkeem, Sagoon, Umra, Waheed, Aamin (petitioner herein), Arif, Abid, Nisar, Tayub, Sarif, Abbas, Aslam son of Ashu, Sanjay, Sehrun and Nisar came to his house and started throwing stones. They damaged the refrigerator and washing machine. Tayub and Sarif both sons of Noor Mohd. took them to their house. The said persons also damaged their vehicle no. HR-74I-6250. Irshad pointed a gun at him and fired in the air. Aslam pointed a country made pistol at his father Abdul Gaffar. Arif fired in the air from his pistol. Sehrun and Sarif were armed with country made pistols and threatened to kill them. Aamin (petitioner herein) caused injury to Imtiyaj with farsa. Kurshid, Rajjak and Samma saved them from the accused who threatened to kill while leaving.

3. The petitioner was convicted vide judgment dated 19.04.2018 passed by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 04.09.2018.

4. Learned counsel for the petitioner submits that after the dismissal of the appeal by learned Sessions Judge, Mewat, the parties have amicably settled the dispute and the compromise was reduced into writing. The copy of the same is available on record as Annexure P-1 and the petitioner has undergone a period of 01 month and 24 days out of 03 years of sentence.

5. Learned counsel for the petitioner further submits that he is not assailing the impugned judgment of conviction dated 19.04.2018 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.

6. 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.

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 petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence as the compromise has been effected between the parties.

10. The FIR in the present case was lodged on 26.05.2014 and the petitioner has been suffering the agony of protracted trial since the last 10 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life and further, a compromise has also been arrived at between the parties. As per his custody certificate, he has undergone actual sentence of 01 month and 24 days out of total sentence of 03 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 petitioner/appellant is reduced to the period already undergone by him.

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

(i) The judgment dated 04.09.2018 passed by the learned Sessions Judge, Mewat, affirming the judgment of conviction is upheld, however, the order of sentence dated 20.04.2018 is modified to the extent that the sentence of simple 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.3,000/- 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.

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

March 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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