

brevity, facts are borrowed from *CRR-3065 of 2019* titled as *Rajesh Kumar vs. State of Punjab*.

2. These revisions have been preferred against the judgment dated 20.08.2019 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, whereby the judgment of conviction and order of sentence dated 19.07.2017 passed by learned Judicial Magistrate 1st Class, Dera Bassi, in case bearing FIR No.155 dated 25.08.2013 registered under Sections 279, 283, 304-A of IPC at Police Station Lalru, was upheld. The petitioners were sentenced as under: -

Petitioner	Offence under Section	Sentence
1. Nachattar Singh	283 IPC	fine of Rs.200/- each, in default of which SI of 01 day.
	304-A IPC	02 years and fine of Rs.1,000/-, in default of which SI of 03 days.
2.Gulzar Singh	283 IPC	fine of Rs.200/-, in default of which SI of 01 day.
	304-A IPC	02 years and fine of Rs.1,000/-, in default of which SI of 03 days.
3.Rajesh Kumar	279 IPC	6 months and fine of Rs.1,000/-, in default of which SI of 3 days.
	304-A IPC	02 years and fine of Rs.1,000/-, in default of which SI of 03 days.

FACTUAL BACKGROUND

2. Briefly, the facts are that an information was received on 25.08.2013, regarding admission of Krishan Chand son of Jeona Ram and Gulzar Singh (petitioner herein) son of Mangal Singh in Civil Hospital, Derabassi and on the same day, after receiving the information HC Gurnam Singh, HC Sarat Chander, C Harbhan Singh and PHG Suraj Pal reached at Civil Hospital, Dera bassi. Complainant Raj Kumar recorded his statement to the police. As per the version of complainant, he is resident of Village Sarangpur, PS Handesra, Lalru S.A.S. Nagar, Mohali and is having agency of two wheeler with the name and style of Prince Automobile, of Hero company, near bus stand Handesra. He stated that last night at about 12.15 AM, driver of

vehicle bearing No.HR38L8001, came to him after taking delivery of two-wheeler from Mohali via Ambala, who parked his vehicle in front of his agency and while stepping down from the driver seat, he was standing on the road. In the meantime, a truck bearing No.HR123595 stopped on the road near to his agency, whose driver was asking about the way from the driver, who came to him for taking delivery, in the meantime, a motorcycle bearing No.HR04A9527 came from Ambala side, who stopped on his side then from Ambala side a car bearing No.HR04D1051 came at a very high speed with rash and negligent manner and hit the driver of motorcycle who along with his motorcycle fell on the back side of truck bearing No.HP123595 and then driver of the car hit his car with the driver of truck bearing No.HR123595 and then hit the patrol tank of the truck. After the occurrence, he came to know that the name of driver of the motorcycle bearing No.HR04A9527 Make CT100 was Krishan Chand son of Jeona Ram R/o Village Jatwar ,PS Panjokhra Sahib, District Ambala, who received serious injuries and the driver of the truck bearing No.HR38L8001 is Gulzar Singh (petitioner herein) son of Mangal Singh R/o Batala, District Gurdaspur, also received injuries and driver of car enlightened from his vehicle. On asking, he disclosed his name as Rajesh Kumar Gupta (petitioner herein) son of Naresh Kumar R/o House No.326, Ward No.4, Naraingarh, Ambala and the driver of Truck bearing No.HP123595 disclosed his name as Nachattar Singh (petitioner herein) son of Sher Singh R/o Village Karanpur, PS Pinjore, Panchkula. After arranging the vehicle Krishan Chand and Gulzar Singh (petitioner herein) were brought to Civil Hospital, Derabassi. Upon reaching Krishan Chand was brought to be dead and Gulzar Singh (petitioner herein) was admitted in the hospital for his treatment. After completion of the Police investigation, the challan in the present case FIR was filed against the petitioners.

3. On finding a *prima facie* case, charges under Sections 279, 283 and 304-A of IPC were framed against the accused persons, to which, they pleaded not guilty and claimed trial. The prosecution examined as many as 09 witnesses to prove its case. Subsequently, statements of the accused persons under Section 313 of the Code of Criminal Procedure were recorded, wherein the petitioners pleaded false implication and did not examine any witness in order to prove their innocence.

4. On assessing all the material available on record, the learned trial Court vide judgment dated 19.07.2017 convicted and sentenced the petitioners-accused as mentioned above. Aggrieved by the judgment of conviction, the petitioners-accused preferred an appeal before the learned lower Appellate Court, which was dismissed vide judgment dated 20.08.2019.

CONTENTIONS

5. Learned counsel for the petitioners contend that they are not assailing the impugned judgment of conviction dated 19.07.2017 on merits and restricts their prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioners as Rajesh Kumar has already undergone a period of 11 months of his custody, Nachhatar Singh has already undergone a period of 11 months and 05 days of his custody and Gulzar Singh has already undergone a period of 09 months and 28 days of his custody. Learned counsel further submit that the petitioners have reformed and intend to live their life as law-abiding citizens.

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

any leniency.

OBSERVATIONS AND ANALYSIS

7. I have heard learned counsel for the parties and perused the paper-book 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 realize 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. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformatory.

10. A perusal of the judgment of conviction passed by the learned trial Court and the learned lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioners have not assailed the judgment of conviction on merits, rather they have restricted their prayer to quantum of sentence qua the petitioners.

CONCLUSION

11. The FIR in the present case was lodged on 25.08.2013. The petitioners have been facing protracted proceedings since more than 10 years and they are not involved in any other criminal activity after their conviction in the present case and during the pendency of the present revision. Since their conviction, the petitioners have grown into a law-abiding citizens and desire to live a peaceful life. Out of the total sentence of 02 years Rajesh Kumar has already undergone a period of 11 months of his custody, Nachhatar Singh has already undergone a period of 11 months and 05 days of his custody and Gulzar Singh has already undergone a period of 9 months and 28 days of his custody. 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. Accordingly, the judgment dated 20.08.2019 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, confirming the conviction of the petitioners is upheld, however, the order of sentence dated 19.07.2017 is modified to the extent that the sentence awarded to the petitioners is reduced to the period of sentence already undergone by them.

13. Consequently, the present revision is disposed of in the following terms: -

- (i) The judgments dated 20.08.2019 passed by the Additional Sessions Judge, SAS Nagar, Mohali, confirming the conviction of the petitioners is upheld, however, the order of sentence dated 19.07.2017 is modified to the extent that the sentence of 02 years under Section 304-A IPC and 06 months under Section 279 IPC, 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 a lump sum amount of Rs.1,000/- imposed upon each of petitioners by the learned trial Court is increased to Rs.10,000/- each of the petitioners. The petitioners are directed to deposit the increased 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.

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

March 19, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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