

brevity, facts are borrowed from *CRR-2733 of 2022* titled as *Ajaib Singh vs. State of Haryana*.

2. These revisions have been preferred against the judgment dated 16.11.2022 passed by learned Additional Sessions Judge, Karnal, whereby the judgment of conviction and order of sentence dated 22.03.2016 passed by learned Judicial Magistrate 1st Class, Assandh in case bearing FIR No.294 dated 06.08.2007 registered under Sections 420, 467, 468, 471 of IPC at Police Station Assandh, was upheld. The petitioners were sentenced as under: -

Petitioner	Offence under Section	Sentence
1. Ajaib Singh 2. Mehal Singh 3. Dalbir Singh	468 IPC	RI 03 years and a fine of Rs.500/- each, in default of which SI of 15 days.
	469 IPC	RI 02 years and fine of Rs.300/- each, in default of which SI of 01 month.
	471 IPC	RI 03 years and fine of Rs.500/- each.

FACTUAL BACKGROUND

2. Briefly, the facts are that on 06.08.2007, a complaint under section 156(3) Cr.P.C was received in police station wherein complainant Tehal Singh submitted that he is owner in possession of one *bara* to the extent of ½ share out of land measuring 1K-2M comprised in khewat no. 25, khatoni no. 33, rect. no. 150, killa no.22/17 (0-2), rect. no. 331/16(0-10), 331/17(0-10) situated in village Shekhpura Manchuri, Tehsil Assapdh, District Karnal vide *jamabandi* for the year 1999-2000. One Smt.Gurmeet Kaur procured a sale deed in collusion with Harjeet Singh, Dalbir Singh (petitioner herein) and Ajaib Singh (petitioner herein) qua his share in above-mentioned land in her favour fraudulently. Dalbir Singh (petitioner herein) and Ajaib Singh (petitioner herein) became witnesses to sale deed no.349/1 dated 10.5.2006 and Harjeet Singh appeared as purchaser to get the sale deed executed and registered in favour of Gurmeet Kaur. The complainant has never appeared nor gave any

authority to any person to execute the sale deed in favour of accused-Gurmeet Kaur. Petitioners produced a stranger person as vendor of the land and petitioners-Dalbir and Ajaib Singh have identified that person wrongly as complainant. All accused in furtherance of their common intention had played fraud with complainant and procured a forged document in favour of accused Gurmeet Kaur. Complainant did not receive even a single penny in lieu of the sale deed. Complainant is well known to all accused persons/petitioners and they are able to identify him and his property being co-villagers. The petitioners played fraud upon complainant as well as Sub-Registrar, Assandh and procured false and fabricated documents in their favour and tried to transfer the total land in favour of Gurmeet Kaur. On the basis of this complaint, a formal FIR bearing No. 294 dated 6.8.2007 was registered. Investigation was conducted. During investigation, police has found Mehal Singh (petitioner herein) as guilty and he was joined as accused in present case.

3. On finding a *prima facie* case, charges under Sections 420, 467, 468, 471 read with Section 34 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 examined 02 witnesses in order to prove their innocence.

4. On assessing all the material available on record, the learned trial Court vide judgment dated 22.03.2016 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 16.11.2022.

CONTENTIONS

5. Learned counsel for the petitioners contend that they are not assailing the impugned judgment of conviction dated 22.03.2016 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 Ajaib Singh has already undergone a period of 07 months and 09 days of his custody, Mehal Singh has already undergone a period of 04 months and 06 days of his custody and Dalbir Singh has already undergone a period of approximately 05 months of his custody. Learned counsel further submit that the petitioners have reformed and intend to live their life as law-abiding citizens. Learned counsel for the petitioners submitted that compromise has also been arrived at between the parties.

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 **RavadaSasikala 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. 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 reformative.

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 06.06.2014. The petitioners have been facing protracted proceedings since last 10 years and they are not involved in any other criminal 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 03 years Ajaib Singh has already undergone a period of 07 months and 09 days of his custody, Mehal Singh has already undergone a period of 04 months and 06 days of his custody and Dalbir Singh has already undergone a period of approximately 05 months of his custody. Moreover, compromise has also been effected between the parties, copy of which has also been placed on record. 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 16.11.2022 passed by learned Additional Sessions Judge, Karnal, confirming the conviction of the petitioners is upheld, however, the order of sentence dated 28.03.2016 is modified to the extent that 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 16.11.2022 passed by the Additional Sessions Judge, Karnal, confirming the conviction of the petitioners is upheld, however, the order of sentence dated 28.03.2016 is modified to the extent that the sentence of Rigorous imprisonment for 03 years under Section 468 IPC, 02 years under Section 469 IPC and 03 years under Section 471 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.1,300/- 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 |