

**CRR-34-2023 (O&M)****1****256 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-34-2023 (O&M)
Date of Decision: 05.02.2025****ISHWAR SINGH****.....Petitioner****Versus****STATE OF HARYANA AND ANOTHER****.....Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Surinder Gandhi, Advocate
for the petitioner.****Mr. Vikas Bhardwaj, AAG Haryana.************HARPREET SINGH BRAR, J. (ORAL)**

1. The present revision petition is preferred against the judgment dated 22.12.2022 passed by learned Additional Sessions Judge, Jhajjar vide which the judgment of conviction and order on quantum of sentence dated 24.09.2015 passed by learned Judicial Magistrate Ist Class, Jhajjar vide which petitioner has been convicted under Sections 420, 467, 468 and 471 of Indian Penal Code and sentenced to undergo rigorous imprisonment for one and half years and also imposed total fine of Rs. 4,000/- with default mechanism have been upheld.

2. Facts, in brief, as alleged by the complainant Ms. Indrawati were that the accused Ishwar Singh (petitioner herein) had committed the offence of cheating and forgery by filing forged admitted written-statement, Power of Attorney (POA) along with statement in the civil suit no.522 of 1978 for declaration filed by him against the complainant and her three sisters whereas,

actually, neither did she had put any thumb impression on the POA filed on her



behalf nor on the admitted written statements, which was the statement allegedly suffered by her in a suit of 1978. The civil suit no.522 of 1978 was instituted by the accused for declaration against his four sisters in which, he forged the thumb impressions of the complainant and three others, namely Manbhari, Parmeshwari and Chhotto, on the admitted written-statement and got the decree passed in his favour. However, they had never appeared in the Court. Moreover, Smt. Parmehwari had already died on 11.01.1971 and there was no occasion for her to remain present in the Court in 1978. Hence, on the basis of manipulated thumb impressions of the complainant and her sisters, the accused-petitioner Ishwar Singh procured a decree regarding valuable land, which belonged to them. Hence, the complaint for the commission of offences punishable u/s 205, 420, 467, 468, 471 of the IPC was instituted against him.

3. After assessing the material available on record learned trial Court vide judgment of conviction and order on quantum of sentence dated 24.09.2015 convicted the accused-petitioner under Sections 420, 467, 468 and 471 of Indian Penal Code and sentenced him to undergo rigorous imprisonment for one and half years and total fine of Rs. 4,000/- was imposed upon him and appeal filed against the said judgment was dismissed by the learned lower Appellate Court.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 22.12.2022 passed by learned Additional Sessions Judge, District Jhajjar on merits and restricts his prayer to modification of the order on quantum of sentence dated 24.09.2015 to that of sentence already undergone by the petitioner as he has already undergone a



total period of 04 months and 11 days including remission, and not involved in any other case.

5. 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.

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 dam-



age 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 lower Appellate Court indicates no perversity in its findings and 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 of quantum of sentence.

9. Perusal of record indicates that complaint(supra) was registered in the year 2010 and the petitioner has been suffering the agony of trial since the last 14 years. As per the custody certificate, the petitioner has undergone total sentence of 04 months and 11 days, including remission, out of rigorous sentence of one and half years awarded to him 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 22.12.2022 passed by the learned

Additional Sessions Judge, District Jhajjar upholding the judgment of

conviction dated 24.09.2015 passed by learned Judicial Magistrate Ist Class, Jhajjar is upheld, however, the order of sentence dated 24.09.2015 is modified to the extent that the sentence of rigorous imprisonment for one and half years awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 4,000/- imposed upon the petitioner is enhanced to Rs. 10,000/-. The petitioner is directed to deposit the remaining 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

05.02.2025
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No