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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-66-2025 (O & M)
Date of decision: 05.02.2025

JAGMOHAN SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manish Verma, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 18.11.2024 passed by learned Additional Sessions Judge, Ludhiana, vide which, judgment of conviction and order on quantum of sentence dated 12.09.2017 passed by learned Judicial Magistrate Ist Class, Jagraon in case bearing FIR No.244 dated 31.07.2007 registered under Section 420 IPC at Police Station Jagraon have been upheld.
2. The petitioner was sentenced as under:

Offence under Section(s)	Sentence
420 IPC	RI for 03 years with a fine of Rs.5,000/-, in default of which, to undergo SI for 03 months.

3. Brief facts of the prosecution case as forwarded from the complaint made by complainant Harjinder Singh to the police are that on 21.5.2004, he had sold out his Kothi/House to one Nirmal Kumar for sale consideration of Rs.13 lakhs. On 21.05.2004, the complainant, along with his



father and sister Amritpal Kaur, went to the office of Sub-Registrar for execution of the above sale deed. The complainant had also called Jagmohan Singh (petitioner herein) and his *Muneem* Om Parkash, over there, to help him in execution of the sale deed. The sale deed got executed and the complainant received Rs.11 lakhs from the vendee as sale consideration. Out of said amount of Rs.11 lakhs, an amount of Rs.10,65,000/- was handed over by the complainant to petitioner/accused Jagmohan Singh, with the request to deposit the said amount in his bank account bearing no.3075 in Union Bank of India. But the petitioner/accused Jagmohan Singh, did not deposit the said amount in the account of the complainant. When complainant asked him for not depositing the amount in his bank account, petitioner/accused Jagmohan Singh stated that he has used the said amount in the firm business, which is being carried by him, Sukhwinder Singh and Baldev and assured the complainant that they will return the aforesaid amount within one month and for assurance, the petitioner/accused Jagmohan Singh had also issued Hundies in favour of the complainant and had also said that these Hundies have been executed by him with the consent of the other partners of the firm i.e. Sukhwinder Singh and Baldev. But, the petitioner and other persons did not return the money of the complainant despite repeated requests. On the basis of aforesaid statement, FIR (*supra*) was registered.

4. The petitioner was convicted and sentenced vide judgment and order dated 12.09.2017 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 18.11.2024.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 18.11.2024 on merits and restricts his prayer to modification of the order on quantum of sentence to

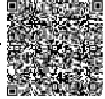


that of the sentence already undergone by the petitioner. Petitioner has undergone a total custody period of 03 months and 10 days, including remission and custody after conviction.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner as 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.

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 modification of quantum of sentence.

10. The FIR in the present case was lodged on 31.07.2007 and the petitioner has been suffering the agony of protracted trial for last 17 years. Since his conviction, the petitioner has grown into 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 total sentence of 03 months and 10 days, including remission out of total sentence of three 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 is reduced to the period already undergone by him.

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

- (i) The judgment dated 18.11.2024 passed by the learned Additional Sessions Judge, Ludhiana, affirming the judgment of conviction dated 12.09.2017 is upheld, however, the order of sentence dated 12.09.2017 is modified to the extent that the



sentence of rigorous imprisonment for three years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.10,000/- upon the petitioner.

(ii) 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. The jurisdictional police/Jail authorities are directed to release the petitioner forthwith, if not required in any other case.

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

February 05, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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