

2025:PHHC:071153



101

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-1905-SB-2004 (O&M)

Date of decision: 26.05.2025

Pawan Kumar @ Pamma and others

... Appellants

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Navkiran Singh, Advocate and
Mr. Hemant Saini, Advocate
for the appellants.

Mr. Subhash Godara, Addl. A.G., Punjab.

Ms. Ritu Punj, Advocate,
Ms. Kulwinder Kaur, Advocate and
Mr. Sarvesh Rattan, Advocate
for injured- Harvinder Singh.

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction and the order of sentence dated 13.09.2004 passed by learned Additional Sessions Judge (Adhoc), Amritsar, in FIR No.5/99 dated

2025:PHHC:071153



11.01.1999 under Sections 307, 308, 382, 353, 332, 333, 148 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25/54/59 of the Arms Act (for short 'the Act'), registered at Police Station Islamabad.

2. The appellants were convicted and sentenced under Sections 332 & 353 of IPC for causing simple hurt and were ordered to undergo rigorous imprisonment for a period of 2½ years and to pay a fine of Rs.500/- each along with default mechanism.

3. Learned counsel for the appellants, *inter alia*, contends that he is not assailing the impugned judgment of conviction dated 13.09.2004 on merits and restricts his prayer qua modification of the order of sentence, to that of the sentence already undergone by the appellants, as appellant No.1 Pawan Kumar @ Pamma has undergone actual sentence of 04 months and 26 days, appellants No.3 & 4 Rajesh Kumar @ Rajnish Kumar @ Bobby and Raj Kumar @ Sonu, respectively, have already undergone the actual sentence of 04 months and 25 days and appellant No.2 Harish Kumar @ Dimple has also undergone the actual sentence of 02 months and 02 days, out of rigorous imprisonment of 2½ years. Further, appellants No.2 & 4 are not involved in any other criminal activity.

4. *Per contra*, learned State counsel, assisted by learned counsel for the injured, namely Harvinder Singh, opposes the prayer of the appellants, as learned trial Court has passed a well-reasoned judgment based on correct

2025:PHHC:071153



appreciation of evidence available on record. He produces the custody certificates dated 26/27.05.2025 of the appellants in the Court, which are taken on record.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellants were convicted for causing simple injuries to the complainant and the victim, attracting the offence punishable under Sections 332 & 353 of IPC, for which no minimum punishment has been prescribed. As per their custody certificates dated 26/27.05.2025, appellants No.2 & 4 are not involved in any other case and appellants No.1, 3 & 4 have already undergone an actual sentence of about 04 months and 25 days and similarly, appellant No.2 also underwent actual sentence of 02 months and 02 days, out of 2½ years R.I. awarded by learned trial Court, in the instant case. Since there is no minimum punishment prescribed under Sections 332 & 353 of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

6. In *Deo Narain Mandal Vs. State of U.P., (2004) 7 SCC 257*, 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

2025:PHHC:071153



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.

7. Further, the Hon'ble Supreme Court in ***Ravada Sasikala Vs. 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.

8. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, FIR (*supra*) was lodged on 11.01.1999 and the appellants have been suffering the agony of trial for the last more than 26 years. Since their conviction, the appellants have

2025:PHHC:071153



grown into law-abiding citizens and desire to live a peaceful life.

9. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

10. As a result of above discussion, present appeal is disposed of and the judgment of conviction dated 13.09.2004 passed by learned Additional Sessions Judge (Adhoc), Amritsar is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous imprisonment of 2½ years and fine of Rs.500/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

11. Since sentence of the appellants was suspended vide order dated 30.09.2004, their bail/surety bonds shall be discharged.

12. All the pending miscellaneous application(s), if any, shall also stand disposed of.

26.05.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No