



204-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2044-SB-2009
Date of decision: 22.04.2025

HARBANS SINGH AND ANOTHER

V/S

STATE OF PUNJAB

...APPELLANTS

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR
Present: Mr. Mohd. Yousaf, Advocate for the appellants.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 25.07.2009 passed by learned Additional Sessions Judge, Patiala, vide which, the appellants have been convicted for commission of offence under Section 306 of IPC, in case stemming from FIR No.183 dated 31.07.2003 registered under Sections 306/34 of IPC at Police Station Sadar, Rajpura and they were sentenced as under :

Offence under Section(s)	Sentence
306 IPC	RI for five years with a fine of Rs.2,000/- each, in default of payment of fine, to further undergo RI for 02 months.

2. Learned counsel for the appellants contends that he is not assailing the impugned judgment of conviction dated 25.07.2009 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the appellants. As per the custody certificates, appellant-Harbans Singh has undergone a period of 01 year, 04



months and 03 days and appellant-Karnail Kaur has undergone a period of 01 year, 07 months and 20 days, out of total sentence of five years, awarded by learned trial Court and both of them are not involved in any other case.

3. *Per contra*, learned State counsel opposes the prayer of the appellants 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, they do not deserve any leniency.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. 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.

6. 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.

7. 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. It transpires that the appellants were convicted under Section 306 of IPC, for which no minimum punishment has been prescribed. Moreover, learned counsel for the appellants has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

8. The FIR in the present case was lodged on 31.07.2003 and the appellants have been suffering the agony of trial for the last more than 21 years. Since their conviction, the appellants have grown into law-abiding citizens and desire to live a peaceful life. As per the custody certificates, appellant-Harbans Singh has undergone a period of 01 year, 04 months and 03 days and appellant-Karnail Kaur has undergone a period of 01 year, 07 months and 20 days, out of total sentence of five years, awarded by learned trial Court and both of them are not involved in any other case.

9. Since there is no minimum punishment prescribed under Section 306 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.



10. Consequently, the present appeal is disposed of and the judgment of conviction dated 25.07.2009 passed by the learned Additional Sessions Judge, Patiala is upheld, however, the order of sentence dated 25.07.2009 is modified to the extent that the sentence of rigorous imprisonment for five years and a fine of Rs.2000/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

April 22, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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