



CRA-S-5126-SB-2014 and one more case

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

**CRA-S-5126-SB-2014 (O&M)
Date of Decision: 24.01.2025**

VED PARKASH @ SONU

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

**CRA-S-5293-SB-2014 (O&M)
Date of Decision: 24.01.2025**

RAJIV KUMAR @ MINTU

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Arora, Advocate and
Ms. Mamta, Advocate for the appellant in CRA-S-5126-SB-2014.

Mr. S.S. Rangi, Advocate and Mr. Fateh Sahota, Advocate
for the appellant in CRA-S-5293-SB-2014.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Instant appeals are filed for setting aside the judgment of conviction and order on quantum of sentence dated 21.11.2014 passed by learned Sessions Judge, Jalandhar vide which appellants herein, were convicted for offences under Sections 120-B, 436 and 457 of Indian Penal Code and were awarded substantive sentence of rigorous imprisonment for four years with total fine of Rs. 5,000/- each, with default mechanism in case bearing FIR No. 155 dated 29.05.2013 registered at Police Station Nakodar.

2. Briefly stated, it is case of the prosecution that complainant (PW1)

Kuldip Rai Puri along with his brother Rajinder Kumar had been running the

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business of selling sanitary goods under the name and style of *M/s. Puri Trading Company* in the shop situated at Kapurthala Road Nakodar. In the evening of 28.05.2013, they had locked their shop from outside after completion of the work at 8.30 p.m. and returned home. However, on the early morning of 29.05.2013 at about 5.00 a.m. some body telephonically informed them that smoke was coming out of their shop. As such, Kuldip Rai Puri along with his brother Rajinder Kumar Puri and their sons Tarun and Varun rushed to their shop. They noticed that smoke was coming from inside the shop. They opened the lock put by them on the shutter door on the main gate but they found that the shutter door was closed from inside. Therefore, the small door was broken with the help of iron sabal and they found that all the articles kept in the shop were badly burnt. Then, they immediately informed the control room and called the fire brigade. The fire was extinguished by the fire brigade but all the articles/goods lying in the shop were converted into ash. They suspected that some unknown persons had entered their shop by breaking the door of the roof and then they locked the doors from inside and put the shop on fire. Statement of Kuldip Rai Puri was recorded by ASI Rashpal Singh and on the basis of the same FIR(supra) was registered for the offences under sections 457, 435, 436 and 120-B of the Indian Penal Code. After registration of FIR, the police swung into action. On 09.06.2013, complainant Kuldip Rai Puri suffered another supplementary statement to the effect that earlier he had terminated services of his two employees, namely, Rajiv Kumar alias Mintu and Ved Parkash alias Sonu (appellants herein) and he suspected that both of them had put their shop on fire. Accused Rajiv Kumar alias Mintu and Ved Parkash alias Sonu were arrested on 26.7.2013. From the possession of accused-appellant Ved Parkash

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alias Sonu, motor cycle bearing registration no. PB-08-CD-0521 was recovered along with its registration certificate.

3. Learned trial Court after assessing the material available on record convicted the appellants under Sections 120-B, 436 and 457 of Indian Penal Code and sentenced them substantive sentence for four years with total fine of Rs. 5,000/- each with default mechanism.

4. Learned counsel for the appellants contends that he is not assailing the impugned judgment of conviction dated 21.11.2014 passed by learned Sessions Judge, Jalandhar on merits and restricts his prayer to modification of the order on quantum of sentence dated 21.11.2014 to that of sentence already undergone by the appellants as appellant-Rajiv Kumar @ Mintu has undergone total custody of 01 year 06 months and 30 days including remission and appellant-Ved Parkash @ Sonu has undergone total custody of 01 year 07 months and 02 days including remission out of total sentence of four years awarded to them.

5. Per contra, learned State counsel opposes the prayer of the appellants on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record.

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 com-

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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.

8. A perusal of the judgment of conviction passed by the learned Court below 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 appellants 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 FIR(supra) was registered in the year 2013 and the appellants have been suffering the agony of trial since the last 11 years. As per the custody certificate, appellant-Rajiv Kumar @ Mintu has undergone total custody of 01 year 06 months and 30 days and appellant-Ved Parkash @ Sonu has undergone total custody of 01 year 07 months and 02 days out of total sentence of four years awarded to them.

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10. 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.

11. Consequently, the present appeal is disposed of in the following terms:-

(i) The judgment of conviction dated 21.11.2014 passed by the learned Sessions Judge, Jalandhar is upheld, however, the order of sentence dated 21.11.2014 is modified to the extent that the sentence of rigorous imprisonment for four years awarded to the appellants is reduced to the period of sentence already undergone by them.

(ii) Fine of Rs. 5,000/- each imposed upon the appellants is enhanced to Rs. 10,000/- each. The appellants are 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 appellants shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

24.01.2025*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>