

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

Date of decision: 01.05.2025

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment dated 12.03.2019 passed by the learned Sessions Judge, Panipat, vide which the appeal against judgment of conviction dated 11.02.2016 and order of sentence dated 12.02.2016 passed by the learned Sub Divisional Judicial Magistrate, Samalkha, in FIR No.450 dated 01.10.2009 registered under Sections 279/304-A of IPC, registered at Police Station Samalkha, has been dismissed.

2. The petitioner was convicted and sentenced as mentioned below:

Offence	Sentence
Section 279 of IPC	Rigorous imprisonment for a period of 06 months.
Section 304-A	Rigorous imprisonment for a period of 02 years and to pay fine of Rs.2,000/-.

Both the sentences were ordered to run concurrently.

3. After assessing the material available on record, the learned trial Court convicted the petitioner vide judgment dated 11.02.2016. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court which has been dismissed vide judgment dated 12.03.2019.



4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and there was no independent corroboration of the testimonies of various witnesses. Also, there was no identification of the petitioner. Further, he is not assailing the impugned judgment of conviction 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, as the petitioner has already undergone a total period of 07 months and 19 days in custody. He further submits that accused/petitioner is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the petitioner as the learned Courts below have passed well-reasoned judgments based on correct appreciation of evidence available on record and as such, he does not deserve any leniency. However, he could not controvert the fact that the petitioner is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner was convicted under Sections 279/304-A of IPC for which no minimum punishment has been prescribed. As per his custody certificate, petitioner has already undergone a period of 07 months and 19 days in custody out of total sentence of 02 years, in the instant case. Since there is no minimum punishment prescribed under Sections 279/304-A of IPC, 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.

7. 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 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.

8. 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 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. However, the FIR (supra) was lodged on 01.10.2009 and the petitioner has been suffering the agony of trial for last more than 15 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

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10. Therefore, in view of the discussion above, the present revision petition is disposed of in the following terms:-

(i) The judgment dated 12.03.2019 passed by the learned Sessions Judge, Panipat, is upheld and sentence of 02 years and fine awarded by the learned trial Court is reduced to the period of sentence already undergone by the petitioner.

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

(HARPREET SINGH BRAR)
JUDGE

01.05.2025*Neha*

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No