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IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-1154-2007 (O&M)
Date of Decision: 24.03.2025

KISHORE KUMAR

...Petitioner

V/S

INCOME TAX OFFICER, WARD NO. 1(2) JALANDHAR

...Respondent

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Arora, Advocate
for the petitioner.
Mr. Nitesh Sharma, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1.

The present revision petition is preferred against the judgment dated 11.07.2007 passed by learned Sessions Judge, Jalandhar vide which judgment of conviction and order on quantum of sentence dated 30.08.2003 passed by learned Chief Judicial Magistrate, Jalandhar have been upheld, whereby, petitioner has been convicted and sentenced as under:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
276 CC of IT Act	Rigorous imprisonment for three months	Rs. 2,000/-	Imprisonment for one month

2.

Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 11.07.2007 passed by learned Sessions Judge, Jalandhar on merits and restricts his prayer to modification of the order on quantum of sentence dated 30.08.2003 to that of sentence already undergone by the petitioner as he has already undergone



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a period of 08 days out of total sentence of three months imposed upon him.

3. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the said judgment has also been upheld by learned lower Appellate Court and as such, he does 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

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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 lower Appellate Court indicates no perversity in its findings and the said judgment is based on correct appreciation of evidence available on record. It transpires that the petitioner was convicted under Section 276 CC of IT Act, for which no minimum punishment has been prescribed. As per his custody certificate, he is not involved in any other case and has already undergone an actual sentence of 08 days out of total sentence of three months awarded to him, in the instant case. 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 order on quantum of sentence. Since there is no minimum punishment prescribed under Section 276 CC of IT Act, 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.

8. The complaint in the present case was instituted on 26.08.1994 and the petitioner has been suffering the agony of trial since the last more than 30 years. As per the custody certificate, the petitioner has undergone



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total sentence of 08 days out of total sentence of three months awarded to him.

9. 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.

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

(i) The judgment of conviction dated 11.07.2007 passed by the learned Sessions Judge, Jalandhar is upheld, however, the order of sentence dated 30.08.2003 is modified to the extent that the sentence of simple imprisonment for three months along with fine of Rs. 2,000/- with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

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

24.03.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*