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and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioners. Learned counsel further submits that both the petitioners have undergone actual period of more than 01 month and 11 days, out of total sentence of 09 months, awarded by learned Appellate Court. Learned counsel for the petitioners submits that the fine of Rs.5,400/- each imposed by the trial Court has already been deposited by the petitioners.

4. *Per contra*, learned counsel for State opposes the prayer of the petitioners on the ground that 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.

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

6. 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. 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



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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. Moreover, learned counsel for the petitioners has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

8. The present complaint is of the year 1997 and the petitioners have been suffering the agony of protracted trial for last more than 28 years. Since their conviction, the petitioners have grown into law-abiding citizen and desire to live a peaceful life. As per custody certificate, the petitioners have undergone the actual sentence of 01 month and 11 days out of total sentence of nine months awarded to them.

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

10. Consequently, the present petition is disposed of and the judgment dated 05.09.2006 passed by the learned Addl. Sessions Judge (Ad hoc) Fast Track Court, Gurdaspur affirming the judgment of conviction is



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upheld, however, the order of sentence is modified to the extent that the sentence of rigorous imprisonment for nine months and fine along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.

11. Pending miscellaneous applications, if any, shall also stand disposed of.

25.04.2025
sonia

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No