

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

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2025.PHHC.160075



CRR-1610-2008 (O&M).
Decided on: November 17, 2025.

INDERJIT

...Petitioner

Versus

RAM BHAJ

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. Rohit Aggarwal, Advocate, for
(Through Video Conference)
Ms. Samridhi Sareen, (Legal-aid-counsel)
for the petitioner.

Ms. Kompal Arora, (Legal-aid-counsel)
for the respondent.

VINOD S. BHARDWAJ. J. (ORAL)

The instant revision petition has been preferred against the judgment of conviction and order of sentence dated 30.03.2004 and 31.03.2004 respectively passed by the Judicial Magistrate First Class, Chandigarh, in complaint case bearing No.44 dated 18.07.1995 filed under Section 138 of the Negotiable Instruments Act, 1881 as amended by the Act No.66 of 1988, whereby the petitioner had been sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.

2. Challenge also is to the judgment dated 29.07.2008, passed by the Additional Sessions Judge, Chandigarh, whereby the appeal preferred by the petitioner bearing Criminal Appeal No.23 dated 28.04.2004/145 dated 01.08.2006 was partly allowed and the sentence awarded to the petitioner by the trial Court was modified. The sentence was reduced to simple imprisonment for a period of six months while maintaining the sentence of fine.

3. At the very outset, learned-legal-aid counsel appearing on behalf of the petitioner, contends that he has gone through the evidence and does not find any major or material illegality, perversity or impropriety in the judgment passed by both the Courts. Thus, no purpose would be served by re-arguing the issues already dealt with. He submits that hence he does not wish to press the present revision petition on merits and confines his prayer only to the extent of punishment and prays that the sentence awarded to the petitioner be reduced to the period already undergone by him in view of the mitigating circumstances.

4 He contends that the incident in question pertains to the year 1995. It is submitted that the complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed on dishonour of a cheque dated 29.05.2025 bearing No.18451754 for a sum of Rs.25,000/- issued by the petitioner. He submits that, according to the case set up by the respondent-complainant, it was a case of a friendly loan, which shows that the petitioner and complainant were having friendly relations.

5 It is submitted that a period of nearly 30 years has elapsed since the issuance of cheque and commission of the offence. The

petitioner is now in advanced ages and has already undergone the agony of trial for about three decades. The parties have moved ahead in their lives. He submits that there is no evidence to show that the petitioner has been involved in any other criminal case during a period of nearly 30 years. It is submitted that as per the order passed by this Court dated 18.09.2008, vide which the remaining sentence of the petitioner was suspended, the petitioner had already undergone a sentence for a period of more than one and a half months out of six months and as such, considering the mitigating circumstances, the prayer for reduction of sentence of the petitioner to the period already undergone be accepted.

6 No one appeared on behalf of the respondent when the case was taken up for hearing on six occasions since September 2023, hence, a legal aid counsel was also appointed for the complainant. Legal aid counsel submits that both the Courts below had considered the evidence led on record and the submissions advanced by the counsel for the respective parties and thereafter returned the finding of conviction. She submits that the petitioner has not been able to point out any material discrepancy in the statements of the witnesses as well as the documentary evidence led on record. She submits that the findings recorded by the trial Court were affirmed by the Appellate Court, however, considering the facts and circumstances, the sentence was reduced to a period of six months. Thus, the petitioner has already been shown relaxation by the appellate Court. She thus submits that the present petition be dismissed.

7 No other argument has been raised by either of the counsel appearing. No judgment has also been cited.

8 I have heard the learned counsel for the parties and have gone through the judgments passed by both the Courts.

PARAMETERS AND PRINCIPLES OF SENTENCING:

9 The Hon'ble Supreme Court has laid down certain principles to govern the Courts in the matter of sentencing. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in the matter of **State of Punjab Vs. Prem Sagar & Ors (2008) 7 SCC 550**. The relevant extract of the said judgment is reproduced hereinbelow: -

5. 'Whether the Court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India.

6. There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.

7. A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice-delivery system. Parliament, however, in providing for a

hearing on sentence, as would appear from sub-section (2) of Section 235, sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.

8. Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.

9. What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The Superior Courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.

10. In Dhananjay Chatterjee Alias Dhana v. State of W.B. [(1994) 2 SCC 220], this Court held:

"15...Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so

that the courts reflect public abhorrence of the crime..."

11. Gentela Vijayavardhan Rao and Another v. State of A.P. [(1996) 6 SCC 241], following Dhananjoy Chatterjee (supra), states the principles of deterrence and retribution but the same cannot be categorized as right or wrong. So much depends upon the belief of the judges.

12. In a recent decision in Shailesh Jasvantbhai and Another v. State of Gujarat and Others [(2006) 2 SCC 359], this Court opined:

"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that: "State of criminal law continues to be--as it should be--a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants

to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

Relying upon the decision of this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471], this Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.

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18. Don M. Gottfredson in his essay on "Sentencing Guidelines" in "Sentencing by Hyman Gross and Andrew von Hirsch" opines:

"It is a common claim in the literature of criminal justice and indeed in the popular press that there is considerable "disparity" in sentencing. The word "disparity" has become a prerogative and the concept of "sentencing disparity" now carries with it the connotation of biased or insidious practices on the part of the judges. This is unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase "unwarranted disparity" may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and

understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored for consistency and desirability over time. Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment- that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

[Emphasis supplied]

The learned author further opines:

"In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence."

19. Kevin R. Reitz in Encyclopedia of Crime and Justice, Second edition "Sentencing guidelines" states:

"All guideline jurisdictions have found it necessary to create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted ("conviction offenses"), or whether a guideline sentence should also reflect additional alleged

criminal conduct for which formal convictions have not been obtained ("non-conviction offenses").

Another difficult issue of fact-finding at sentence for guideline designers has been the degree to which trial judges should be permitted to consider the personal characteristics of offenders as mitigating factors when imposing sentence. For example: Is the defendant a single parent with young children at home? Is the defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline states, once again including all jurisdictions with voluntary guidelines, allow trial courts latitude to sentence outside of the guideline ranges based on the Judge's assessment of such offender characteristics. Some states, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. (However, such factors may indirectly affect the sentence, since judges are permitted to base departures on the offender's particular 'amenability' to probation (Frase, 1997).)"

20. Andrew von Hirsch and Nils Jareborg have divided the process of determining sentence into stages of determining proportionality while determining a sentence, namely:

1. What interests are violated or threatened by the standard case of the crime- physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.

2. Effect of violating those interests on the living standards of a typical victim- minimum well-being, adequate well-being, significant enhancement

3. Culpability of the offender

4. Remoteness of the actual harm as seen by a reasonable man.'

CONCLUSION

10 Keeping the aforesaid principles in mind, it is evident that the offence in question was not an offence against society at large or opposed to public order. It was also not an offence in the nature as would be dangerous to national integrity or shocking to the public conscience. It is an outcome of a friendly loan between the parties and admittedly, the parties had friendly relations.

11 The object of punishment is not only to punish but also to rehabilitate the offenders in society. Where an accused reflects a strong possibility of improvement and reformative behaviour, the process of law should come to the aid of such an accused so as to ensure his reintegration into society.

12 Undisputedly, the offence in question took place in the year 1995 and much water has flown since then over three decades. Petitioner has not indulged in any other criminal act or conduct after the suspension of his sentence on 18.09.2008 and thereafter, a period of more than 17 years has passed. Besides, the petitioner must be now at an advanced stage of his life and have grown-up children. Relegating the petitioner to undergo the remaining sentence at this stage may have serious repercussions on the prospects and family life of the petitioner as well as

his children. Besides, this Court cannot lose sight of the fact that a long incarceration in a trial and the fear of the pending petition itself is a punishment unto itself. Besides, the petitioner had also undergone an actual sentence of nearly one and a half months before the concession of suspension of sentence was granted to him.

13 I find that such a prolonged incarceration, the protracted criminal trial and the consequent agony faced by the petitioner, the actual sentence out of total sentence already undergone by the petitioner, the reformatory tendency shown by the petitioner by not indulging in any other offence, the age of the petitioner at the time of the incident as well as the legal principles reproduced above, are sufficient mitigating circumstances.

14 The present petition is accordingly **partly allowed**. While the judgment of conviction dated 30.03.2004, passed by the trial Court and the judgment passed by the Additional Sessions Judge, Chandigarh, dated 29.07.2008, are affirmed, however, the order of sentence dated 29.07.2008 is further modified and the sentence awarded to the petitioner is reduced to the period already undergone by him. However, the sentence regarding fine is maintained and punishment in default thereof is maintained.

November 17, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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