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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2702-2009 (O&M)
Date of Decision: 06.03.2025

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AVTAR SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aminder Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab

Harpreet Singh Brar, J. (Oral)

1. The present revision petition is preferred against the judgment dated 07.10.2009 passed by learned Additional Sessions Judge, SAS Nagar Mohali vide which judgment of conviction and order on quantum of sentence dated 14.02.2008 passed by learned Judicial Magistrate Ist Class, SAS Nagar Mohali have been upheld, whereby, petitioner has been convicted and sentenced as under:

Offence under Sections	Sentence awarded	Fine	Sentence in default of payment of fine
279 of IPC	Rigorous imprisonment for six months	Rs.1,000/-	Rigorous imprisonment for 07 days
338 of IPC	Rigorous imprisonment for one year	Rs.1,000/-	Rigorous imprisonment for 07 days

Both the sentences were ordered to run concurrently.

2. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 07.10.2009 passed by learned Additional Sessions Judge, SAS Nagar Mohali on merits and restricts his prayer

to modification of the order on quantum of sentence dated 14.02.2008 to that of



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sentence already undergone by the petitioner as he has already undergone a period of 02 months and 19 days, including remission, out of total sentence of one year awarded to 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 by making the accused realise the damage caused not only to the victim but also to



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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 said judgment is based on correct appreciation of evidence available on record. 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 quantum of sentence.

8. The FIR in the present case was registered on 30.04.2002 and the petitioner has been suffering the agony of trial since the last about 23 years. As per the custody certificate, the petitioner has undergone total sentence of 02 months and 19, including remission, out of total sentence of one year 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 07.10.2009 passed by the learned Additional Sessions Judge, SAS Nagar Mohali is upheld, however, the order of sentence dated 14.02.2008 is modified to the extent that the sentence of rigorous imprisonment for one year awarded to the petitioner is reduced to the period of sentence already undergone by him.

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(ii) Total Fine of Rs. 2,000/- imposed upon the petitioner is enhanced to Rs. 5,000/-. The petitioner is 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 petitioner shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

06.03.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No