

2025:PHHC:174733



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

201

CRR-467-2009

Date of Decision: 12.12.2025

SHAMSHER SINGH

... Petitioner

VERSUS

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL.

Present: Mr. Rajan Bansal, Advocate
for the petitioner.

Mr. P.S. Pandher, AAG, Punjab.

H.S. GREWAL, J. (ORAL)

Feeling aggrieved by the judgment of conviction and order of sentence dated 26.09.2007 passed by the then Addl. Chief Judicial Magistrate, Barnala in case FIR No.1 dated 01.01.2004 under Sections 324 and 326 of IPC, registered at Police Station Tapa, District Barnala, as well as the judgment dated 20.01.2009 passed by learned Addl. Sessions Judge, Barnala dismissing the appeal of the petitioner, the petitioner has come up before this Court by filing the present petition.

2. The case of the prosecution is that on 31.12.2003, the petitioner had attacked the son of the complainant with Kasia and thereby caused serious injury on the left side of his head. After recording the statement of complainant, the abovementioned FIR was registered on 01.01.2004 against the petitioner. The petitioner was arrested in the present case, and after completion of formal

investigation, the challan was prepared and presented before the Court for commencement of trial. Pursuant thereto, the petitioner was tried in the Court and vide judgment dated 26.09.2007 passed by the then Addl. Chief Judicial Magistrate, Barnala, the petitioner was convicted and sentenced to undergo imprisonment for three years and to pay a fine of Rs.3000/- and in default thereof, to further undergo imprisonment for three months under Section 326 of IPC. Feeling aggrieved by the said conviction and sentence, the petitioner preferred an appeal before the Sessions Court, Barnala, wherein learned Addl. Sessions Judge, Barnala vide judgment dated 20.01.2009 dismissed the appeal while upholding the judgment of conviction and order on sentence dated 26.09.2007. Hence, the instant Revision Petition.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction and order on sentence dated 26.09.2007 as well as the judgment dated 20.01.2009 passed by the lower Appellate Court on merits, but restricts his prayer qua modification of the order on quantum of sentence dated 26.09.2007, to the period as already undergone by the petitioner, as he has already undergone a sentence of 05 months including remissions out of the total sentence of 03 years. He further prays that since FIR in question pertains to the year 2004, hence, a lenient view may be taken while passing an order on quantum by this Court. He further submits that at the time of occurrence, the petitioner was 75-80 years old and as of now, he is about 92-95 years old and as such a lenient view may be taken qua him.

4. On the other hand, learned State counsel opposes the prayer of the petitioner by way of filing of custody certificate of the petitioner dated 12.12.2025 and submits that the Courts below have passed well-reasoned judgments based on correct appreciation of evidence available on record. However, he does not refute the fact that the petitioner is not involved in any other case.

5. I have heard learned counsel for the parties and have gone through the material placed on record.

6. The petitioner has been convicted for causing serious injury to Tarsem Singh- son of the complainant with sharp edged weapon, punishable under Section 326 of IPC, for which no minimum punishment has been prescribed. Moreover, it is apparent from a perusal of record that at the time of occurrence, the petitioner was 75-80 years old and if it was so, then at present, the petitioner would be about 92-95 years old and perhaps might not be able to sustain himself and might also be suffering from old age ailments. Furthermore, the FIR in the present case pertains to the year 2004 and the petitioner has already faced the rigors of the prosecution for about two decades.

7. Hon'ble the Supreme Court in "***Deo Narain Mandal Vs. State of UP***", (2004) 7 SCC 257, has held 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, the 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 that the sentence is neither excessively harsh nor does it come across as lenient.

8. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166***, has held that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realize 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 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 as well as the learned lower Appellate Court indicate no perversity in its findings and the same are based on correct appreciation of evidence available on record. However, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather restricted his prayer only *qua* modification in the order on quantum of sentence to that of the sentence already undergone by the petitioner.

10. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 2004. Right to speedy and expeditious trial is one of the most valuable and cherished rights of an accused guaranteed under the Constitution of India. The petitioner has already suffered the agony of protracted trial/prosecution, spanning over a period of approximately two decades and has been in the corridors of the Court for this prolonged period. He remained incarcerated for five months including remissions. He has been living peacefully for the last approximately 20 years as no report contrary to that has been received. In view of the facts noted above as well as the old age of the petitioner, his case deserves to be dealt with leniency. The petitioner also deserves the benefit of the consistent view taken by this Court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of **Haripada Das Vs. State of West Bangal** reported in (1998) 9 SCC 678 and **Alister Anthony Pareira Vs. State of Maharashtra** reported in (2012) 2 SCC 648 and considering the facts and circumstances of the case, age of petitioner, his status in the society and the fact that he faced financial hardship and had to go through mental agony, this Court is of the view that ends of justice would sufficiently be met, if sentence imposed upon the petitioner is reduced to the period already undergone by him.

11. Accordingly, the judgment of conviction dated 26.09.2007 passed by the then learned Addl. Chief Judicial Magistrate, Barnala, affirmed by the then learned Addl. Sessions Judge, Barnala is further affirmed by this Court also, however, the order on sentence dated 26.09.2007 which was further affirmed by the lower Appellate Court vide judgment dated 20.01.2009 is modified and the

sentence of the petitioner is reduced to the period of sentence already undergone by him till date which would be sufficient and justifiable to serve the interest of justice. The petitioner is on bail. He needs not to surrender. His bail/surety bonds are discharged. However, there shall be no modification in the payment of fine imposed by the Court below. The petitioner is directed to deposit the amount of fine before the trial Court/Duty Magistrate/Addl. Chief Judicial Magistrate, Barnala within a period of two months from today, failing which, he shall be liable to be taken into custody to undergo imprisonment as per the default clause passed by the trial Court in its judgment dated 26.09.2007.

12. With these modifications, the present petition is disposed of.

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

14. The Chief Judicial Magistrate, Barnala is directed to initiate appropriate proceedings against the petitioner, if the amount of fine is not deposited within the stipulated time.

DECEMBER 12, 2025.

Rajender

**(H.S. GREWAL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No