



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
206

CRR-2386-2010 (O&M)
Date of decision: 24.04.2025

Raghbir Singh and another
State of Punjab
Versus
....Petitioners
....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankit Bhardwaj, Advocate
for Mr. B.S. Jaswal, Advocate for the petitioners.
Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment dated 20.08.2010 passed by the learned Additional Sessions Judge, Ferozepur, vide which judgment of conviction and order on quantum of sentence dated 20.08.2009 passed by the learned Sub-Divisional Judicial Magistrate, Zira, in FIR No.34 dated 01.04.1997 registered under Sections 61(1)(a) of Punjab Excise Act at Police Station Zira, have been upheld.
2. The petitioners were convicted by the learned trial Court vide judgment of conviction dated 20.08.2009 and were sentenced as mentioned below:

Offence	Sentence
Section 61(1)(a) of the Punjab Excise Act	Rigorous Imprisonment for a period of 01 year each and to pay a fine of Rs.1000/- each and in default, to further undergo RI for a period of 01 month.



3. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 20.08.2010 on merits and restricts his prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by the petitioners, as the petitioner – Raghbir Singh has already undergone a period of 08 months and 28 days whereas petitioner – Naresh Kumar has already undergone total sentence of 04 months and both of them are not involved in any other criminal activity.

6. *Per contra*, learned State counsel opposes the prayer of the petitioners on the ground that the 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, the petitioners do not deserve any leniency.

7. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioners were convicted under Section 61(1)(a) of Punjab Excise Act, for which no minimum punishment has been prescribed. As per custody certificate, the petitioners are not involved in any other case and the petitioner – Raghbir Singh has already undergone a period of 08 months and 28 days and petitioner – Naresh Kumar has already undergone total sentence of 04 months out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Section 61(1)(a) of Punjab Excise Act, 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.

8. In ***Deo Narain Mandal Vs. 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, 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 the sentence is neither excessively harsh nor does it come across as lenient.

9. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. 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 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 Court below indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. 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 already undergone by the petitioners.

10. The FIR in the present case was registered on 01.04.1997 and the petitioners are suffering the agony of trial since the last 28 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desire to live a peaceful life.

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

- (i) *The judgment of conviction dated 20.08.2010 passed by the learned Additional Sessions Judge, Ferozepur is upheld.*
- (ii) *The order of sentence is modified to the extent that the sentence of rigorous imprisonment for a period of 01 year and fine along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.*

12. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

24.04.2025

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