



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
207

CRR-2434-2010 (O&M)
Date of decision:24.04.2025

Shiv Kumar
.....Petitioner
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Veneet Sharma, Advocate
for the petitioner.
Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment dated 25.08.2010 passed by the learned Additional Sessions Judge, Fast Track Court, Amritsar, vide which judgment of conviction and order on quantum of sentence dated 18.05.2009 passed by the learned Judicial Magistrate Ist Class, Amritsar, in FIR No.54 dated 17.05.2001 registered under Sections 420, 417 IPC and Section 63-A of Copy Right Act, at Police Station 'D' Division, Amritsar District Amritsar, have been partly modified.
2. The petitioner was convicted by the learned trial Court vide judgment of conviction dated 18.05.2009 and was sentenced as mentioned below:

Offence	Sentence
Section 420 of IPC	RI for 02 years with fine of



	Rs.1,000/- and in default of payment of fine to further undergo SI for 15 days
Section 78 of Trade & Merchandise Mark Act	RI for 01 year

3. It was ordered that both the sentences shall run concurrently. However, the petitioner was acquitted under Section 420 IPC by learned lower Appellate Court vide judgment dated 25.8.2010.
4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 25.08.2010 on merits and restricts his prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by the petitioner, as he has already undergone a period of 22 days and is not involved in any other criminal activity.
6. *Per contra*, learned State counsel opposes the prayer of the petitioner 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 petitioner does 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 petitioner was firstly convicted under Section 420 IPC and Section 78 of the Trade & Merchandise Mark Act and thereafter, his appeal was partly allowed and he stood acquitted of charge under Section 420 IPC, however, his sentence under Section 78 of the Trade & Merchandise Mark Act remained intact, for which no minimum punishment has been



prescribed. As per the custody certificate, the petitioner is not involved in any other case and has already undergone an actual sentence of 22 days out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Section 78 of the Trade & Merchandise Mark Act, 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.

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 petitioner 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 petitioner.

10. The FIR in the present case was registered on 17.05.2001 and the petitioner has been suffering the agony of trial since the last more than 23 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life.

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

- (i) The judgment of conviction dated 25.08.2010 passed by the learned Additional Sessions Judge, Fast Track Court, Amritsar is upheld.***
- (ii) The order of sentence is modified to the extent that the sentence of rigorous imprisonment for a period of 01 year awarded to the petitioner is reduced to the period of sentence already undergone by him.***



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

(HARPREET SINGH BRAR)
JUDGE

24.04.2025
yakub

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