

CRR-1223-2011

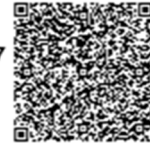
and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. As per his custody certificate, the petitioner has undergone a period of 02 months and 09 day, out of total sentence of 01 year, awarded by learned Appellate Court and is not involved in any other case.

3. *Per contra*, learned State counsel opposes the prayer of the petitioner as 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, 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



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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 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 and upheld by the learned Appellate Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. It transpires that the petitioner was convicted under Sections 279/304-A of IPC, for which no minimum punishment has been prescribed. 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 lodged on 03.12.1998 and the petitioner has been suffering the agony of trial for the last more than 26 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his custody certificate, the petitioner has undergone a period of 02 months and 09 days, out of total sentence of 01 year, awarded by learned Appellate Court and he is not involved in any other case.

9. Since there is no minimum punishment prescribed under Sections 279/304-A of IPC, 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 and the judgment dated 06.05.2011 passed by the learned Sessions Judge, Patiala



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affirming the judgment of conviction dated 28.05.2009 is upheld, however, the order of sentence is modified to the extent that the sentence of rigorous imprisonment for one year and a fine of Rs.500/- along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

11. Pending miscellaneous applications, if any, shall also stands disposed of.

02.05.2025
sonia

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No