

CRR-15-2011 (O&M) -1-

205-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-15-2011 (O&M)
DATE OF DECISION: 21.08.2025

SONU @ DINESH

.....Appellant

Versus

STATE OF HARYANA

.....Respondent

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

Present: Mr. N.C. Kinra, Advocate and
Mr. Apoorva Kinra, Advocate
for the appellant.

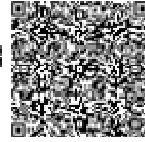
Mr. Tapan Masta, Addl. A.G., Haryana.

H.S. GREWAL J. (Oral)

Feeling aggrieved by the judgment of conviction dated 04.12.2008 and order of sentence dated 06.12.2008 passed by learned Judicial Magistrate Ist Class, Hansi in FIR No.239 dated 12.09.1999 under Section 377 of IPC registered at Police Station Narnaund whereby the appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1200/- as cost of trial which was upheld by the Appellate Court vide its order dated 27.11.2010.

2. The appellant has now come up before this Court by way of filing of the present appeal.

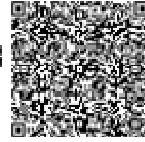
3. The case of the prosecution is that on 11.09.1999 the complainant namely Dinesh son of Jai Parkash with his mother, met ASI Maha Singh, Incharge P.P. Bass at Bus Stand Bass and got recorded his statement to the effect



that he is a student of 8th standard in Government Senior Secondary School, Bass Khurd. On 11.09.1999 he went to the shop of accused namely, Sonu son of Chaman Lal resident of Bass Khurd who is running a retail shop to take his audio cassette back from the said accused, who had borrowed the same from the complainant, 20 days back. The accused held-up him at his shop under the pretext of helping him (Sonu) in shop work and handed over a fifty rupee note to the complainant as a token for assistance provided by the complainant, before closing the shop. Then the accused took him to a Bajra field and then to the village pond and at the village pond, the accused had carnal intercourse with him. He started weeping. In the meantime his brother Rajesh and Narender son of Om Parkash reached there. On seeing them, the accused fled away. Thereafter, they came back to their house and told the occurrence to their mother Angoori Devi as their father is working in Indian Force. Upon this, a *ruqa* was sent for registration of FIR. The investigation proceeded and the relevant medical record was taken into custody. Site plan was prepared and the statements of the witnesses under Section 161 of Cr.P.C. were recorded. The accused was arrested. After completion of investigation, final report under Section 173 of Cr.P.C. was presented in the Court for trial.

4. Thereafter, upon conclusion of the trial, the appellant/accused was held guilty and sentenced vide impugned judgment dated 04.12.2008 passed by learned Judicial Magistrate Ist Class, Hansi as enumerated above.

5. Learned counsel for the appellant submits that the appellant has been suffering the agony of trial since 12.09.1999 as the appeal is also an extension of trial. He is not involved in any other criminal case since his release on interim bail by this Court vide order dated 17.03.2011 during the pendency of

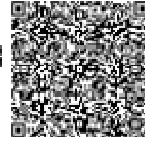


present appeal and it would be just and expedient to reduce the sentence awarded to the appellant by the learned Judicial Magistrate Ist Class, Hansi to the period as already undergone, as the appellant is a law-abiding citizen and has reformed himself after his conviction. Learned counsel for the appellant states that without referring to the merits of the case, he prays for reduction of sentence while taking a lenient view on the ground that the appellant is not involved in any other case and has not indulged in any such activity, even after his conviction.

6. At this stage, counsel for the appellant submits that he is not assailing the judgment of conviction on merits, rather restricts his prayer qua modification of the order of sentence to the period already undergone.

7. On the other hand, learned State counsel opposes the prayer of the appellant(s) by way of filing of custody certificate dated 20.08.2025 on the ground that the trial Court concerned has passed a well-reasoned judgment after taking into consideration the entire evidence and the material available on record and there is no perversity or illegality in the findings returned by it. He further submits that the appellant is not involved in any other case.

8. 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

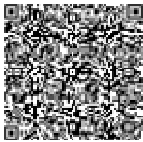


proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

9. Further, a two-Judge Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166*, has held 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.

10. A perusal of the judgment of conviction passed by learned Judicial Magistrate Ist Class, Hansi indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the appellant has not assailed the judgment of conviction on merits, rather restricted the prayer only *qua* modification of quantum of sentence to that of the period already undergone by the appellant.

11. 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 1999. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The appellant has already suffered the agony of protracted trial, spanning over a period of more than 25 years and has been in the corridors of the court for this prolonged period. He remained incarcerated for 05 months and 09 days. He is living peacefully for last more than two



decades as no report contrary to that has been received. In view of the facts noted above, the case of the appellant deserves to be dealt with leniency. The appellant 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 Bengal* reported in (1998) 9 SCC 678 and *Alister Anthony Pareira vs.* [2023:RJ-JD:28174] (5 of 5) [CRLR-755/2003] *State of Maharashtra* reported in 2012 2 SCC 648 and considering the facts and circumstances of the case, age of appellant, 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 be met, if sentence imposed upon the appellant is reduced to the one already undergone by him.

12. Accordingly, judgment of conviction dated 04.12.2008 and order of sentence dated 06.12.2008 passed by the learned Judicial Magistrate Ist Class, Hansi is affirmed but the quantum of sentence awarded by the trial Court concerned is modified to the extent that the sentence he has undergone till date would be sufficient and justifiable to serve the interests of justice. The appellant is on bail. He need not surrender. His bail bonds are discharged. However, the amount of fine is enhanced to Rs. 5,000/- over and above the fine so imposed vide impugned order of sentence dated 06.12.2008 passed by the learned Judicial Magistrate Ist Class, Hansi.

13. With these modifications, the present appeal is disposed of.

21st August, 2025

Sonia Puri

(H.S. GREWAL)
JUDGE

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