

**CRR-3415-2010 (O&M)****1****203****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-3415-2010 (O&M)****Date of Decision: 03.04.2025****GANESH @ SHERI****...PETITIONER****Versus****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. K.S. Lakhanpal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

*********Harpreet Singh Brar, J. (Oral)**

1. The prayer in the present petition is to set aside the judgment dated 22.09.2010 passed by learned Additional Sessions Judge, (ADHOC) Fast Track Court, Gurdaspur vide which criminal appeal preferred by the petitioner was partly allowed and sentence under Sections 467, 468, 471 and 120-B of IPC was set aside and sentence under Section 465 of IPC was reduced from two years to one year with fine of Rs. 3,000/- in case stemming from FIR No. 97 dated 10.06.1997 registered at Police Station Sadar Gurdaspur.

2. Learned Counsel for the petitioner submits that he is not assailing the impugned judgment of conviction dated 22.09.2010 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Gurdaspur on merits and restricts his prayer to modification of the order of sentence passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Gurdaspur to that of sentence already undergone by the petitioner as he has already undergone a period of 06 months and 10 days (including remission) out of total sentence of 01 year imposed upon him.

3. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a



well-reasoned judgment based on correct appreciation of evidence available on record and the said judgment has also been upheld by learned lower Appellate Court and as such, petitioner do 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 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.

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7. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and the said judgment is based on correct appreciation of evidence available on record. It transpires that the petitioner was sentenced under Section 465 of IPC, for which no minimum punishment has been prescribed. The FIR in the present case was lodged on 10.06.1997 and the petitioner has been suffering the agony of trial since the last more than 27 years. As per his custody certificate, he has undergone a period of 06 months and 10 days (including remission) out of total sentence of 01 year imposed upon him. 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 order on quantum of sentence. Since there is no minimum punishment prescribed under Section 465 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.

8. Accordingly, 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. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life

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

- (i) The judgment of conviction dated 22.09.2010 passed by the learned Additional Sessions Judge (Adhoc), Fast Track Court, Gurdaspur, is upheld, however, the order of sentence is modified to the extent that the sentence of rigorous imprisonment for 01 year and total fine of Rs. 3,000/-



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with default mechanism is reduced to the period of sentence already undergone by the petitioner.

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

(HARPREET SINGH BRAR)
JUDGE

03.04.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No