



husband M.N. Vijayan and daughter Vidhya was going in a Maruti car bearing no.HR-29N-0725 from Faridabad to Jind in connection with admission of her daughter in Engineering College, Jind. Her husband Vijayan was driving the car. When they reached near bus stand Village Pauli, a truck driven rashly and negligently by the driver came from the side of Jind and dashed against the Maruti car, due to which, the car got turned towards the side of Rohtak and the occupants sitting in the car received injuries. Driver of the truck fled from the spot whereas her husband succumbed to the injuries. She along with her daughter received injuries upon their person.

4. The petitioner was convicted and sentenced vide judgment and order dated 03.01.2011 passed by learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 01.09.2011.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 03.01.2011 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. Petitioner has undergone a total period of 01 year and 04 days, including remission and is not involved in any other case.

6. *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.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. 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. 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.

9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. 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.

10. The FIR in the present case was lodged on 09.08.2006 and the



petitioner has been suffering the agony of protracted trial for more than 18 years. Since his conviction, the petitioner has grown into law-abiding citizen and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 01 year and 04 days, including remission out of total sentence of one year, in the instant case.

11. 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.

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

(i) The judgment dated 01.09.2011 passed by the learned Sessions Judge, Jind, affirming the judgment of conviction is upheld, however, the order of sentence dated 03.01.2011 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.10,000/- upon the petitioner.

(ii) The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

January 08, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

(i) Whether speaking/reasoned
(ii) Whether reportable

Yes/No
Yes/No