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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-333-2013
Date of decision: 25.02.2025

Om Kumar @ Om Parkash

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kotla, Advocate
for the petitioner.

Mr. S.K. Panwar, Addl.A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 09.01.2013 passed by the learned Additional Sessions Judge, Hisar, vide which judgment of conviction dated 16.09.2009 and order on quantum of sentence dated 18.09.2009 passed by the learned Judicial Magistrate 1st Class, Hisar, in FIR No.961 dated 28.08.1997 under Sections 420/467/468/471 of the Indian Penal Code (for short ‘IPC’), registered at Police Station Sadar, Hisar, have been partly upheld.
2. The petitioner was convicted by the learned Judicial Magistrate 1st Class, Hisar vide judgment dated 16.09.2009 and was sentenced as mentioned below:

Offence	Sentence
Section 471 of IPC	Rigorous imprisonment for 03 years along with fine of Rs.1,000/-, in default of which simple imprisonment for 01 month.
Section 474 of IPC	Simple imprisonment for 03 years along with fine of Rs.1,000/-, in default of which simple imprisonment for 01 month.



It was ordered that both sentences shall run concurrently.

3. The petitioner preferred an appeal against the judgment of conviction dated 16.09.2009 and the order of sentence dated 18.09.2009 before the learned Appellate Court and the same was partly allowed. The order of sentence dated 18.09.2009 was modified to the extent that the conviction of the petitioner under Section 474 of IPC was found to be unsustainable. Consequently, the sentence imposed upon the petitioner was set aside and the petitioner was acquitted under the said Section. Additionally, the fine of Rs.1,000/- paid by the petitioner under Section 474 of the IPC was directed to be refunded. However, the judgment of conviction dated 16.09.2009 and the order of sentence dated 18.09.2009 *qua* the offence under Section 471 of IPC was upheld. Being aggrieved with the same, the present revision petition has been filed.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 16.09.2009 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 as has already undergone a period of 05 months 26 days and is not involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioner as 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 Appellant Court and as such, he does not deserve any leniency.

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



7. 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.

8. 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. 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 28.08.1997 and the petitioner has been suffering the agony of trial since the last 27 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone actual sentence of 05 months and 26 days out of total sentence of 03 years 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 under Section 471 of IPC is reduced to the period already undergone by him.

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

(i) The judgment dated 09.01.2013 passed by the learned Additional Sessions Judge, Hisar, affirming the judgment of conviction under Section 471 of IPC is upheld, however, the order of sentence dated 18.09.2009 is modified to the extent that the sentence of rigorous imprisonment for 03 years along with default mechanism awarded to the petitioner under Section 471 of IPC is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of Rs.1,000/- imposed upon the petitioner by the trial Court is increased to Rs.5,000/-. 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

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petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

25.02.2025*Neha*

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