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260(3) IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-3101-2015 (O&M)
Date of Decision: 14.01.2025

SANTOSH

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dheeraj Kumar, Advocate for
Mr. Mohit Kakkar, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Present revision petition has been preferred by the petitioner against the judgment dated 03.06.2015 passed by learned Additional Sessions Judge, Karnal vide which judgment of conviction and order on quantum of sentence dated 11.05.2012/14.05.2012 passed by learned Sub Divisional Judicial Magistrate, Assandh, have been upheld, vide which petitioner has been convicted under Sections 419, 420, 467, 468 and 471 of Indian Penal Code read with Section 120-B of Indian Penal Code and sentenced to undergo substantive sentence of rigorous imprisonment for one year with total fine of Rs. 1500/- was imposed with default mechanism.

2. Brief facts of the FIR No. 410 dated 10.9.2004 lodged by Smt. Kamlesh, complainant are that she reported to the police through a complaint that she was married with late Jasmer Singh, who died in the year 1991 and after his death, a Kareva marriage was performed by complainant

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with brother of Jasmer Singh namely Salinder and since then she is residing with Salinder. She further alleged that her father Nagina was owner of agricultural land in village Jhimri Khera, situated within the revenue estate of village Popra, Tehsil Assandh District Karnal. After the death of Nagina, his agricultural land and other properties were inherited by Smt. Manohari mother of complainant, Om Parkash, Bhim Suba, Balwan, Kaptan brothers of complainant and Smt. Sikhsa and Murti sisters of complainant and complainant herself having 1/8th share each. Accused persons, by hatching a criminal conspiracy, sold the share of complainant and her two brothers namely Balwan Singh and Kaptan Singh by impersonating them. Accused Santosh impersonated the complainant, accused Subhash son of Maman impersonated Balwan and accused Rajesh alias Jassa impersonated Kaptan and all the accused persons by hatching conspiracy with each other alienated the share of complainant and her two brothers Balwan and Kaptan and played a fraud. All the accused persons at the time of execution and registration of the sale deed dated 29.5.2001 were knowing the fact that complainant and her two brothers namely Balwan and Kaptan were owners in possession over their respective shares. The accused persons affixed their photographs on the sale deed including Santosh, Subhash and Rajesh and they by executing the sale deed in favour of Sadhu Ram committed a forgery with complainant and Balwan Singh and Kaptan Singh, whereas the complainant and her brothers Balwan and Kaptan never intended to sell the land of their shares. It was further alleged that on 25.07.2004 complainant and her two brothers namely Balwan and Kaptan contacted Halqa Patwari for taking copy of Jamabandi for the purpose of taking loan from bank and

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then Halqa Patwari told them that the complainant and her aforesaid brothers have already alienated their shares vide sale deed dated 29.05.2001 for a sale consideration of Rs.9000/- and a mutation has already been entered and sanctioned dated 14.08.2011. The name of Sadhu Ram has already been incorporated in the jamabandi for the year 2001-02 in the column of ownership. After coming to know about the fraud committed by the accused persons by hatching a criminal conspiracy, the complainant and her brothers convened a Panchayat in which her brother Krishan Lal was also present. Accused persons had admitted their fault, but threatened the complainant that in case she would report the matter to police or will take any action against them, she would be done to death. The complainant then made complaint to the police but no action was taken. Hence, the present complaint.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 03.06.2015 passed by learned Additional Sessions Judge, Karnal on merits and restricts his prayer to modification of the order of quantum of sentence dated 14.05.2012 to that of sentence already undergone by the petitioner has undergone a period of 03 months and 19 days including remission.

4. 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 which has also been upheld by the learned lower Appellate Court and as such, they does not deserve any leniency.



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

6. 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.

7. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and the said



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judgment is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioners has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

8. Perusal of record indicates that FIR(supra) was registered in the year 2004 and the petitioner is facing the agony of trial since last 20 years. As per the custody certificate, petitioner has undergone 03 months and 19 days of custody including remission out of rigorous sentence of one year awarded to her.

9. 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 her.

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

(i) The judgment dated 03.06.2015 passed by the learned Additional Sessions Judge, Karnal upholding the judgment of conviction dated 11.05.2012 passed by learned Sub Divisional Judicial Magistrate, Assandh is upheld, however, the order of sentence dated 14.05.2012 is modified to the extent that substantive sentence of rigorous imprisonment for one year awarded to the petitioner is reduced to the period of sentence already undergone by her.

(ii) Fine of Rs. 1500/- imposed upon the petitioner is enhanced 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

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payment of fine, the petitioner shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

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

14.01.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*