



CRR-4222-2015 (O&M) -1-

249 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-4222-2015 (O&M)
Date of decision: 26.05.2025

JUBER

.....Appellant

Versus

STATE OF HARYANA

.....Respondent

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

Present: Mr. Kapil Khanna, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

H.S. GREWAL J. (Oral)

Feeling aggrieved by the judgment dated 27.07.2015 passed by learned Judicial Magistrate Ist Class, Ferozepur Jhirka in FIR No.138 dated 23.06.2012 under Sections 279, 304-A IPC registered at Police Station Ferozepur Jhirka, Mewat whereby the appellant has been convicted on 27.07.2015 and was sentenced vide order dated 28.07.2015 as under:

Name of convict	Under Section	Sentence	Fine in Rs.	Default in fine /sentence
Juber	279 IPC	RI for 06 months	500/-	RI for a period of 15 days
	304-A IPC	RI for one year	500/-	RI for one month
	Both the sentences were ordered to run concurrently. To pay compensation of Rs.10,000/- to the family of the deceased as per provisions of Section 357 Cr.P.C.			



2. The aforesaid order and judgment was upheld by the Appellate Court vide its judgment dated 09.10.2015, the appellant has come up before this Court by way of filing of the present appeal.

3. The case of the prosecution is that on 23.06.2012 ASI Hardev Singh along with HC Surender Singh, Ct. Bhupendra Singh on a government vehicle were present at Ambedkar Chowk, Ferozepur Jhirka on crime patrolling when MHC, Police Station Ferozepur Jhirka informed via telephone that an accident has occurred near Mundaka Border and asked to reach for proceeding. Then, ASI Hardev Singh along with fellow officials on Government vehicle reached at Mundaka Border where dead body of deceased Om Prakash was lying. Complainant Satpal got recorded his statement to the effect that he is a labourer by occupation. He stated that on that day i.e. on 23.06.2012 he and his cousin Omprakash & Om Prakash's son Sunder aged 8-9 years were going to village Kho(Raj.) from village Husainpur on Motorcycle Number HR36G-0343 for medication of the child Sunder. He was driving the motorcycle. When they reached near village Mundaka Border at about 11:30 AM, he was driving his motorcycle in a slow speed but from the side of Ferozepur Jhirka driver of a HIWA Damper came by driving his HIWA Damper in a very fast speed and in a rash & negligent manner, without blowing horn and hit his Motorcycle from behind. By the impact Motorcycle fell on the road and Omprakash S/o Chhutmal fell under the front tyre of the HIWA and he and Sunder fell on one side of the road. Driver of the HIWA stopped his vehicle at some distance and the complainant saw the Number of the HIWA as HR-55M-8720. He saw that head of his cousin Omprakash was profusely bleeding and had died on the spot. Driver of the HIWA fled away from the spot along with his vehicle. He saw that



Sunder also suffered many serious injuries. One Deepak came on the spot and took Sunder to hospital in a private vehicle while on way to hospital, he succumbed to his injuries. On 25.06.2012, the accused Juber was arrested.

4. Thereafter, upon conclusion of the trial, the appellant/accused was held guilty by Judicial Magistrate Ist Class, Ferozepur Jhirka vide impugned judgment dated 27.07.2015 and was heard on quantum of sentence on 28.07.2015 as enumerated above.

5. Learned counsel for the appellant also submits that the appellant has been suffering the agony of trial since 23.06.2012 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 22.12.2015 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 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 by way of filing of custody certificate dated 24.05.2025 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. A two Judge-Bench of the Hon'ble Supreme Court in ***Mohd. Giasuddin Vs. State of AP, AIR 1977 SC 1926***, speaking through Justice V.R. Krishna Iyer, has observed as under:-

"Crime is a pathological aberration. The criminal can ordinarily be redeemed and the state has to rehabilitate rather than avenge. The sub-culture that leads to antisocial behaviour has to be countered not by undue cruelty but by reculturization. Therefore, the focus of interest in penology is in the individual and the goal is salvaging him for the society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today vies sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of a social defence. Hence a therapeutic, rather than an 'in terrorem' outlook should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries."

9. 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.

10. 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.

11. A perusal of the judgment of conviction passed by the learned Judicial Magistrate Ist Class 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.

12. Besides the present case, the appellant has not been involved in any other case. Considering the fact that FIR is of the year 2012 and the appellant has already faced the rigors of trial and the fact that he has undergone 03 months and 06 days of custody, therefore, while taking a lenient view in the present case, this Court deems it fit to reduce the sentence awarded to the appellant to the period already undergone.



13. In view of above, the present appeal is **disposed of** by upholding the judgment of conviction dated 27.07.2015 passed by the learned Judicial Magistrate Ist Class, Ferozepur Jhirka. However the order of sentence dated 28.07.2015 is modified to the extent that the sentence of rigorous imprisonment for a period of 01 year is reduced to the period of sentence already undergone by him.

14. The present appeal is disposed of accordingly. Pending applications if any, also stand disposed of.

26th May, 2025
Sonia Puri

(H.S. GREWAL)
JUDGE

<i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
<i>Whether reportable</i>	:	<i>Yes / No</i>