

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRR-3198-2016 (O&M)
Date of Decision: 28.01.2025

...Petitioners

Versus

...Respondent

CRR-3354-2016 (O&M)
Date of Decision: 28.01.2025

...Petitioner

Versus

...Respondent

CRR-3691-2016 (O&M)
Date of Decision: 28.01.2025

...Petitioner

Versus

...Respondent

CRR-3172-2016 (O&M)
Date of Decision: 28.01.2025

...Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vaibhav Narang, Advocate,
Mr. Devansh Khanna, Advocate,
Mr. Ram Niwas, Advocate for Mr. Tanvir Singh Grewal, Advocate
for the petitioner(s).

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

CRR-3198-2016 and three other cases (O&M)**2**

1. This common order of mine shall dispose of all the aforementioned revision petitions as same order of conviction has been challenged in all the four petitions.

2. These revision petitions have been preferred by the petitioners against the judgment dated 16.08.2016 passed by learned Additional Sessions Judge, Rewari vide which judgment of conviction and order on quantum of sentence dated 28.01.2015/31.01.2015 passed by learned Judicial Magistrate Ist Class, Rewari have been partly upheld, vide which all the petitioners have been convicted under Sections 420 read with Section 34 of Indian Penal Code and awarded sentence of simple imprisonment for three years and total fine of Rs. 2000/- was imposed upon the petitioners with default mechanism.

3. Brief facts of the prosecution case are that complainant filed a criminal complaint in the court of ACJM, Rewari on 16.07.2007 submitting that the complainant had been coming as joint owner in possession of the property bearing house tax No. 7696 situated at Circular road near Dharuhera Chungi, Rewari after the death of Mamchand and Ram Kumar. It was further averted that a civil suit regarding the property in dispute was pending in the Court of Civil Judge, (Sr. Divn.), Rewari and status quo order has been passed on dated 15.09.2004. The complainant has come to know that accused No. 1 to 6-petitioners herein in connivance with each other after producing some person in place of complainant before the Sub Registrar, Rewari have executed a registered sale deed in favour of accused No. 3-Suraj regarding the above said property No. 7696 whereas the complainant has never appeared before the Sub Registrar, Rewari for registration of sale deed and he has also not received any amount in lieu of sale deed. He has also not executed any sale deed on dated 20.06.2007

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and the entire story regarding the above said sale deed is wrong, forged and concocted. It was further averred that the sale deed vasika No. 2498 dated 20.06.2007 has not been executed and registered by the complainant in favour of accused No. 3 but the accused No. 1 to 6 have executed the same in connivance with each other and for causing wrongful loss to the complainant. With these submissions, the complainant submitted that the accused have committed the offences punishable under sections 420, 467, 468, 471 and 120B of IPC and hence prayed for sending the complaint under section 156 Cr.P.C. to S.H.O, P.S. Model Town, Rewari for registration and investigation of the case. On the basis of this complaint, formal FIR was registered. Investigation was conducted which culminated into filing of report u/s 173 Cr.P.C. After completion of usual investigation, challan was prepared and presented before the Court for trial.

4. Learned trial Court after assessing the material on record convicted all the petitioners under Sections under Sections 420 read with Section 34 of Indian Penal Code, whereby accused-petitioner Raj Kumar was convicted under Sections 419, 420 read with Section 34 of Indian Penal Code and were awarded substantive sentence of simple imprisonment for three years along and fine of Rs. 2,000/- was imposed upon all the petitioners(except Raj Kumar) and petitioner Raj Kumar was imposed a fine of Rs. 4,000/- with default mechanism. Appeal filed against the said judgment of conviction and order of sentence was partly allowed, as petitioner-Raj Kumar was acquitted of the offence under Section 419 of Indian Penal Code, by learned Lower Appellate Court vide judgment dated 16.08.2016.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 16.08.2016 passed by learned

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modification of the order on quantum of sentence dated 31.01.2015 to that of sentence already undergone by the petitioners as petitioner-Arvind has already undergone a period of 06 months and 23 days including remission, petitioner-Suraj has already undergone a period of 05 months and 24 days including remission, petitioner-Ravi @ Ravi Shankar has already undergone a period of 06 months and 23 days including remission, petitioner-Mahabir Singh has already undergone a period of 05 months and 18 days including remission, petitioner-Ramgiri has already undergone a period of 03 months and 04 days including remission and petitioner-Raj Kumar has already undergone a period of 04 months and 06 days including remission, out of substantive sentence of 03 years awarded to them.

6. Per contra, learned State counsel opposes the prayer of the petitioners 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 partly upheld by the learned lower Appellate Court and as such, they do 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

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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 lower Appellate Court indicates no perversity in its findings and the said 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.

10. Perusal of record indicates that FIR(supra) was registered in the year 2007 and the petitioners have been suffering the agony of trial since the last 18 years. As per the custody certificate, petitioner-Arvind has already undergone a period of 06 months and 23 days including remission, petitioner-Suraj has already undergone a period of 05 months and 24 days including remission, petitioner-Ravi @ Ravi Shankar has already undergone a period of 06 months and 23 days including remission, petitioner-Mahabir Singh has already under-

gone a period of 05 months and 18 days including remission, petitioner-Ramgiri has already undergone a period of 03 months and 04 days including remission and petitioner-Raj Kumar has already undergone a period of 04 months and 06 days including remission, out of substantive sentence of 03 years awarded to them.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

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

(i) The judgment dated 16.08.2016 passed by the learned Additional Sessions Judge, Rewari partly upholding the judgment of conviction dated 28.01.2015 passed by learned Judicial Magistrate Ist Class, Rewari is upheld, however, the order of sentence dated dated 31.01.2015 is modified to the extent that the substantive sentence of simple imprisonment for three years awarded to the petitioners is reduced to the period of sentence already undergone by them.

(ii) Fine of Rs. 2000/- imposed upon the petitioners is enhanced to Rs. 10,000/- each. The petitioners are directed to deposit the remaining 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 simple imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

28.01.2025
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No