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

CRR-973-2014 (O&M)
Date of decision: 17.03.2025

Santosh Kumari

....Petitioner

Versus

Sunil Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhsharan Sra, Advocate
for the petitioner.

Mr. Kuldeep Sheoran, Advocate for
Mr. Ashish Pannu, Advocate
for respondent No.1.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment dated 11.03.2014 passed by the learned Additional Sessions Judge, Gurgaon, vide which judgment of conviction dated 04.04.2013 and order of sentence dated 05.04.2013 passed by the learned Judicial Magistrate 1st Class, Gurgaon, in complaint bearing No.5298 dated 12.05.2010 under Section 138 of the Negotiable Instruments Act titled as 'Sunil Kumar Vs. Santosh Kumari.'

2. The petitioner was convicted by the learned Judicial Magistrate 1st Class, Gurgaon, vide judgment dated 04.04.2013 and was sentenced as mentioned below:

Offence	Sentence
Section 138 of the Negotiable Instruments Act	To undergo simple imprisonment for a period of six months along with compensation of Rs.11,00,000/- and Rs.3,00,000/-. In default, of non payment, further to undergo simple imprisonment for a period of three months.



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3. The petitioner preferred an appeal against judgment of conviction dated 04.04.2013 and order of sentence dated 05.04.2013 which was also dismissed by learned lower Appellate Court vide judgment dated 11.03.2014. Being aggrieved with the same, present revision petition has been filed.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 04.04.2013 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 and 22 days and is not involved in any other criminal activity.

5. Per contra, learned counsel for respondent No.1 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 Appellate 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 on quantum of sentence.

10. The complaint in the present case was filed on 12.05.2010 and the petitioner has been suffering the agony of trial since the last more than 14 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 22 days out of total sentence of six months in the instant case.



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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 revision petition is disposed of in the following terms:-

(i) The judgment dated 11.03.2014 passed by the learned Additional Sessions Judge, Gurgaon, affirming the judgment of conviction is upheld, however, the order of sentence dated 05.04.2013 is modified to the extent that the sentence of simple imprisonment for six months along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

13. However, the compensation as awarded by the learned trial Court would remain intact and respondent No.1 would be at liberty to recover the same in accordance with law.

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

(HARPREET SINGH BRAR)
JUDGE

17.03.2025

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