

**CRM-32385-2016 in/and
CRR-3780-2016 (O & M)
Date of decision: 27.03.2025**

...PETITIONER

SATISH KUMAR AND ANOTHER

...RESPONDENTS

Present: Mr. Gurbal Singh Sandhu, Advocate for the petitioner.
Mr. Rishabh Singla, AAG, Punjab.

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For the reasons mentioned in the application, the same is allowed.

Delay of 92 days in filing the instant revision petition is condoned.

MAIN CASE

1. This revision petition has been preferred against the judgment dated 04.04.2016 passed by learned Additional Sessions Judge, Sri Muktsar Sahib, vide which, judgment of conviction and order on quantum of sentence dated 15.11.2014 passed by learned Sub Divisional Judicial Magistrate, Malout in a complaint case filed under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'NI Act') have been upheld.

2. The petitioner was sentenced as under:

Offence	Sentence
138 NI Act	RI for 01 year with fine of Rs.2,000/-, in default of payment of fine to further undergo RI for 01 month.



3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 04.04.2016 passed by learned Additional Sessions Judge, Sri Muktsar Sahib 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. He submits that the petitioner had undergone a period of 07 months and 03 days as per his custody certificate dated 29.11.2016 and his sentence was suspended vide order dated 21.12.2016 by this Court. As such, the petitioner has undergone a period of about 08 months of actual custody, out of total sentence of one year, awarded by learned trial Court, under Section 138 of NI Act. Further, no compensation was awarded by learned trial Court and only a fine of Rs.2,000/- was awarded, which was deposited at the time of filing the appeal.

4. *Per contra*, learned State for respondent 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, he does not deserve any leniency.

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



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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 trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, 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.

8. The present complaint is of the year 2013 and the petitioner has been suffering the agony of protracted trial for last more than 11 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to



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live a peaceful life. As per record, the petitioner had undergone a period of about 08 months, out of total sentence of one year, awarded by learned trial Court and he is not involved in any other case.

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 him.

10. Consequently, the present petition is disposed of and the judgment dated 04.04.2016 passed by the learned Additional Sessions Judge, Sri Muktsar Sahib, affirming the judgment of conviction is upheld, however, the order of sentence dated 15.11.2014 is modified to the extent that the sentence of rigorous imprisonment for one year and fine along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

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

March 27, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No