



CRR-1345-2017 (O&M) -1-

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

**CRR-1345-2017 (O&M)
Date of decision: 16.05.2025**

Rajinder Singh @ Raju

.....Appellant

Versus

State of Punjab

.....Respondent

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

Present: Mr. Deepender Singh, Advocate
for the appellant.

Mr. Manvir Singh Toor, AAG, Punjab.

H.S. GREWAL J. (Oral)

Feeling aggrieved by the judgment and order dated 18.11.2016 passed by learned Sub Divisional Magistrate, Rajpura whereby the appellant has been convicted and sentenced under Section 61(1)(a) of Punjab Excise Act (for short 'the Act'), and also burdened with Rs.500/- as costs of litigation in default of payment of costs to further undergo simple imprisonment for a period of 5 days, in FIR No.90 dated 17.04.2012 under Sections 61/1/14 of Punjab Excise Act, registered at Police Station City Rajpura which was upheld by the Appellate Court vide its judgment dated 13.02.2017, the appellant has come up before this Court by way of filing of the present appeal.

2. The case of the prosecution is that on 17.04.2012 ASI Gurmeet Singh along with other police officials were on patrolling and checking of unscrupulous persons and were present near under bridge of railway, Rajpura where ASI Gurmeet Singh received secret information to the effect that Rajinder Singh @ Raju son of Megh Raj of Villge Matlodha, Distt. Panipat and Jarnail



Singh @ Jaila son of Sardara Singh of Sehjanpur, P.S. Raikot, Distt. Ludhiana in connivance with contractor of Chandigarh are indulging in smuggling of liquor from Chandigarh to Rajasthan, Haryana, Gujarat and Punjab etc. and they, without permit or license purchased liquor from Chandigarh on lesser rate and sold it to the area of other States on high price and on that day, Rajinder Singh and Jarnail Singh came in truck bearing No. GJ-14T-4247 after loading huge quantity of liquor for selling the same in the States of Rajasthan and Gujarat secretly and if a *naka* be installed near ICL, railway crossing then both the above named accused persons could be caught red handed. Relying on the information to be trustworthy, *ruqa* was sent to the police station through HC Bahadur Singh for registration of case and then ASI Gurmeet Singh along with police officials had installed a *naka* near railway crossing as disclosed in secret information. After some time a truck bearing No. GJ-14T-4247 mark LP 2515 came from Chandigarh side in which both accused were present and then police party apprehended both the above named accused persons after disclosing the facts of the case. On checking of the said truck, 300 cartons of country made liquor mark Green Label and 600 cartons of country made liquor mark DSP Blank (for sale in Chandigarh only) were recovered, 41 drums plastic of different capacities were arranged and liquor of cartons regarding both brands was poured into said drums, out of the said drums, sample nips were separated. After that case property i.e., 41 drums containing country made liquor of both brands, 41 sample nips were sealed by ASI Gurmeet Singh with his seal bearing impressions GS. Then parcel of 900 empty cartons and empty bottles was also prepared and same was also sealed by ASI Gurmeet Singh with his seal bearing impression GS. Sample seal was separately prepared and case property was taken into police possession vide recovery memo. Truck No.GJ-14T-4247 along with its relevant papers was also



taken into police possession vide recovery memo. Site plan was prepared, both accused were arrested, statements of witnesses were recorded. On return to the police station, case property was deposited with MHC in the *malkhana*. After completion of investigation challan against the accused was presented before the Court.

3. Thereafter, upon conclusion of the trial, the appellant/accused was convicted by Sub Divisional Judicial Magistrate, Rajpura vide impugned judgment dated 18.11.2016 and vide even dated order, was sentenced to undergo rigorous imprisonment as enumerated above.

4. Learned counsel for the appellant also submits that the appellant has been suffering the agony of trial since 17.04.2012 as the appeal is also an extension of trial. He is not involved in any other criminal case since the suspension of his sentence by this Court vide order dated 23.05.2017 during the pendency of present appeal and it would be just and expedient to reduce the sentence awarded to the appellant by the learned Sub Divisional Judicial Magistrate 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.

5. 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.

6. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificate dated 14.05.2025 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.

7. 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 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."

8. 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.

9. 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.

10. A perusal of the judgment of conviction passed by the learned Sub Divisional Judicial Magistrate 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.

11. 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 13 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.



12. In view of above, the present appeal is **disposed of** by upholding the judgment of conviction dated 18.11.2016 passed by the learned Sub Divisional Judicial Magistrate, Rajpura. However the order of sentence dated 18.11.2016 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, costs along with default clause awarded to the appellant is enhanced to Rs.5000/-.

13. The present appeal is disposed of accordingly.

16th May, 2025
Sonia Puri

(H.S. GREWAL)
JUDGE

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