

It was ordered that all the sentences shall run concurrently.

3. Brief facts of the case are that on 17.11.2010, statement of Beeru son of Daulati Ram, resident of village Partapura, P.S. Phillaur, District Jalandhar, was recorded by Jagdish Kumar, ASI wherein he stated that on the night of 16.11.2010, he along with his friend Harsh Sharma son of Parshotam Kumar, resident of village Partapura had gone on the Hero Honda motorcycle of Harsh Kumar bearing registration No.PB-37-E-9535 to see Santosh son of Satnam, resident of village Kang Ariyan, who was a friend of Harsh Sharma. On that day, the celebration of birthday of the nephew (brother's son) of the said Santosh was going on in his house. After the birthday celebration, the complainant and Harsh Sharma stayed back in the village Kang Ariyan. On 17.11.2010 at 4:00 A.M, the complainant, his friend Harsh Sharma and Santosh started on the Hero Honda motorcycle of Harsh Sharma for Jalandhar as Harsh Sharma was to bring some necessary papers from Jalandhar. When the motorcycle of the complainant party had gone one kilometer from Goraya towards Phagwara City, then a fast moving truck came from behind. The driver of the truck was driving his vehicle in a rash and negligent manner. He did not blow the horn. He came from behind and over-ran the motorcycle of the complainant and his friends. At that time, Harsh Sharma was driving the motorcycle, while the complainant and his friend Santosh were riding on the pillion. As a consequence of the impact, the right legs of the complainant and Santosh were seriously injured, while Harsh Sharma sustained serious injuries, on account of which he died at the spot. The truck-tanker bore the registration No.PB11-AJ-9945. The driver of the truck-tanker left his vehicle at the spot and managed to escape. The complainant and Santosh were sighted by the members of the Highway Patrolling Party. They got the complainant and Santosh admitted in Mahal Hospital, Goraya, from where Santosh was referred

to Ludhiana. On the basis of the statement of the complainant, FIR (supra) was registered.

4. The petitioner was convicted and sentenced vide judgment and order dated 01.09.2016 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 21.03.2017.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 21.03.2017 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. Petitioner has undergone a total period of 09 months and 01 day, including remission and custody after conviction.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner as 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.

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 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.

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. 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.

10. The FIR in the present case was lodged on 17.11.2010 and the petitioner has been suffering the agony of protracted trial for last about 14 years. Since his conviction, the petitioner has grown into law-abiding citizen and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 09 months and 01 day, including remission out of total sentence of two years, in the instant case.

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 petition is disposed of in the following terms:-

(i) The judgment dated 21.03.2017 passed by the learned Additional Sessions Judge, Jalandhar, affirming the judgment of conviction is upheld, however, the order of sentence dated 01.09.2016 is modified to the extent that the sentence of rigorous imprisonment for two years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him. Fine of Rs.5000/- imposed upon the petitioner is enhanced to Rs.10,000/-

(ii) The petitioner is directed to deposit the 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 rigorous imprisonment for one month. Fine amount, if already deposited, be adjusted.

10.02.2025

Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

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