



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

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CRR-1455-2019 (O&M)
Date of decision: 27.10.2025

BALBIR SINGH @ BIRU

.....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Ms. Savi Nagpal, Asst. A.G. Punjab.

VINOD S. BHARDWAJ. J.(Oral)

1. The present revision petition has been preferred against the judgment of conviction and order of sentence dated 19.07.2018 passed by the Judicial Magistrate First Class, Shaheed Bhagat Singh Nagar, whereby the petitioner has been convicted for commission of offences punishable under Section 419 and 420 read with Section 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") in case bearing FIR No. 47 dated 23.10.2014 registered under Sections 419, 420, 467, 468, 471, 120-B of the IPC at Police Station, City Banga, District and against the judgment dated 17.05.2019 passed by the Additional Sessions Judge, SBS Nagar whereby the appeal filed by the petitioner

has been dismissed. The petitioner has been sentenced as under:-

Offence	Sentence	Fine	In default of Payment of fine
419 read with Section 120-B of Indian Penal Code	Rigorous imprisonment for a period of two years	Rs.2000/-	Simple imprisonment for a period of 30 days
420 read with Section 120-B of Indian Penal Code	Rigorous imprisonment for a period of two years	Rs.2000/-	Simple imprisonment for a period of 30 days

2. The brief facts as mentioned in the order of the trial Court reads thus:-

“The facts, which are imperative to be exposted for the disposal of the present appeal in essence are that on 25.8.2014, a complaint was moved by the Branch Manager of Indian Bank, Branch Banga to the Senior Superintendent of Police, Shaheed Bhagat Singh Nagar, wherein he informed regarding the fraud committed with the Indian Bank Branch Banga, which complaint was marked to the Economic Offences Wing, Nawanshahr, wherein during inquiry, Krishan Kumar Marjara, Branch Manager of the complainant bank got his statement recorded to ASI Jasvir Singh on 2.9.2014, to the effect that on 23.5.2014, two persons approached him in the bank and disclosed their names as Manjot Singh and Amarjit Singh and they showed their willingness to avail agriculture loan and also produced fard jamabandi in the name of Amarjit Singh. Complainant had further stated that after completing the necessary formalities, mortgage deed was executed in the office of Sub-Registrar, Banga and at the time of execution of mortgage deed Jaswant Singh Lambardar identified Amarjit Singh principal debtor and Surinder Singh guarantor. It was further submitted that on 9.6.2014, an agriculture loan of ₹ 3 lakh was sanctioned in favour of

Amarjit Singh and at the time of execution of loan documents, Amarjit Singh had also submitted some identity cards. It was further submitted that the accused had even given their mobiles numbers at the time of availing loan, but after sanctioning of the loan, when the bank officials tried to contact the accused on those mobile numbers, the same were not reachable. It was further submitted by the complainant that on 21.8.2014, he obtained fard jamabandi of the mortgaged land and found that the said land was already mortgaged with Punjab and Sind Bank for a loan of ₹ 20 lakh.

3. Since the learned counsel for the petitioner has confined his prayer only to the quantum of sentence, hence the factual aspects are not being delved into at this stage. Learned Counsel submits that the incident occurred in 2014 and petitioner has suffered a protracted trial of almost 11 years. Therefore he prays that the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

4. On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that the guilt of the petitioner stands proved by way of cogent and convincing evidence. Counsel contends that the petitioner is a habitual offender and as per the custody certificate, there are 04 other FIRs pending against the petitioner. Further, it is imperative that harsh punishment be imposed upon the criminals so that a deterrent effect is created in the society.

5. I have heard learned counsel representing the parties and have gone through the case record.

Parameters and Principles of Sentencing:

6. The Hon'ble Supreme Court has laid down certain principles

to govern the Courts in the matter of sentencing. Reference in this regard is made to the judgment of the Hon'ble Supreme Court in the matter of **State of Punjab Vs. Prem Sagar & Ors (2008) 7 SCC 550**, the relevant extract of the said judgment is reproduced hereinbelow:-

'Whether the court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstance of each case.

5. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India.

6. There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.

7. A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice delivery system. The Parliament, however, in providing for a hearing on sentence, as would appear from Sub-section (2) of Section 235, Sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.

8. *Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.*

9. *What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The Superior Courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.*

10. *In Dhananjoy Chatterjee Alias Dhana v. State of W.B. [(1994) 2 SCC 220], this Court held:*

"15...Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime..."

11. *Gentela Vijayavardhan Rao and Another v. State of A.P. [(1996) 6 SCC 241], following Dhananjoy Chatterjee (supra), states the principles of deterrence and retribution but the same cannot be categorized as right or wrong. So much depends upon the belief of the judges.*

12. *In a recent decision in Shailesh Jasvantbhai and Another v. State of Gujarat and Others [(2006) 2 SCC 359], this Court opined:*

"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of

the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of "order" should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that: "State of criminal law continues to be--as it should be--a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

Relying upon the decision of this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471], this Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.

18. Don M. Gottfredson in his essay on "Sentencing Guidelines" in "Sentencing: Hyman Gross and Andrew von Hirsch" opines:

"It is a common claim in the literature of criminal justice- and indeed in the popular press- that there is

considerable "disparity" in sentencing.. The word "disparity" has become a prerogative and the concept of "sentencing disparity" now carries with it the connotation of biased or insidious practices on the part of the judges. This is unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase "unwarranted disparity" may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored or consistency and desirability over time. Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment- that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

[Emphasis supplied]

The learned author further opines:

"In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence."

19. Kevin R. Reitz in Encyclopedia of Crime and Justice, Second edition "Sentencing guidelines" states:

"All guideline jurisdictions have found it necessary to

create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted ("conviction offenses"), or whether a guideline sentence should also reflect additional alleged criminal conduct for which formal convictions have not been obtained ("nonconviction offenses").

Another difficult issue of fact-finding at sentence for guideline designers has been the degree to which trial judges should be permitted to consider the personal characteristics of offenders as mitigating factors when imposing sentence. For example: Is the defendant a single parent with young children at home? Is the defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline states, once again including all jurisdictions with voluntary guidelines, allow trial courts latitude to sentence outside of the guideline ranges based on the judge's assessment of such offender characteristics. Some states, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. (However, such factors may indirectly affect the sentence, since judges are permitted to base departures on the offenders particular "amenability" to probation (Frase, 1997).)"

20. Andrew von Hirsch and Nils Jareborg have divided

the process of determining sentence into stages of determining proportionality while determining a sentence, namely:

1. What interest are violated or threatened by the standard case of the crime- physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.

2. Effect of violating those interests on the living standards of a typical victim- minimum well-being, adequate well-being, significant enhancement

3. Culpability of the offender

4. Remoteness of the actual harm as seen by a reasonable man.'

7. The said issue was also examined by the Hon'ble Supreme Court in the matter of **Soman Vs. State of Kerala, (2013) 11 SCC 382**, the relevant extract of the said judgment is reproduced hereinbelow:-

'15. Giving punishment to the wrongdoer is at the heart of the criminal justice delivery, but in our country, it is the weakest part of the administration of criminal justice. There are no legislative or judicially laid down guidelines to assist the trial court in meting out the just punishment to the accused facing trial before it after he is held guilty of the charges. In State of Punjab v. Prem Sagar (2008) 7 SCC 550, this Court acknowledged as much and observed as under –

“2. In our judicial system, we have not been able to develop legal principles as regards sentencing. The superior courts except making observations with regard to the purport and object for which punishment is imposed upon an offender, have not issued any guidelines. Other developed countries have done so. At some quarters, serious concerns have been expressed in this behalf. Some committees as for example Madhava

Menon Committee and Malimath Committee have advocated introduction of sentencing guidelines.”

16. Nonetheless, if one goes through the decisions of this Court carefully, it would appear that this Court takes into account a combination of different factors while exercising discretion in sentencing, that is proportionality, deterrence, rehabilitation etc. (See: Ramashraya Chakravarti v. State of Madhya Pradesh (1976) 1 SCC 281, Dhananjay Chatterjee alias Dhana v. State of W.B. (1994) 2 SCC 220, State of Madhya Pradesh v. Ghanshyam Singh (2003) 8 SCC 13, State of Karnataka v. Puttaraja (2004) 1 SCC 475, Union of India v. Kuldeep Singh (2004) 2 SCC 590, Shailesh Jasvantbhai and another v. State of Gujarat and others (2006) 2 SCC 359, Siddarama and others v. State of Karnataka (2006) 10 SCC 673, State of Madhya Pradesh v. Babulal (2008) 1 SCC 234, Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra (2009) 6 SCC 498)

14. In a proportionality analysis, it is necessary to assess the seriousness of an offence in order to determine the commensurate punishment for the offender. The seriousness of an offence depends, apart from other things, also upon its harmfulness. The question is whether the consequences of the offence can be taken as the measure for determining its harmfulness? In addition, quite apart from the seriousness of the offence, can the consequences of an offence be a legitimate aggravating (as opposed to mitigating) factor while awarding a sentence. Thus, to understand the relevance of consequences of criminal conduct from a Sentencing standpoint, one must examine: (1) whether such consequences enhanced the harmfulness of the offence; and (2) whether they are an aggravating factor that need to be taken into account

by the courts while deciding on the sentence.

26. Punishment should acknowledge the sanctity of human life. We fully agree.

27. From the above, one may conclude that:

27.1. Courts ought to base sentencing decisions on various different rationales – most prominent amongst which would be proportionality and deterrence.

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint.

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable. In case of illicit and underground manufacture of liquor, the chances of toxicity are so high that not only its manufacturer but the distributor and the retail vendor would know its likely risks to the consumer. Hence, even though any harm to the consumer might not be directly intended, some aggravated culpability must attach if the consumer suffers some grievous hurt or dies as result of consuming the spurious liquor.

8. The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court

to extend opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the immediate collectives also has to be examined.

9. In the said background and the legal maxims behind sentencing, the mitigating circumstances in the present case, to examine sustainability of the prayer made by the petitioner, are being extracted as under:-

- i) The incident in question pertains to the year 2014 and already a period of 11 years elapsed. The petitioner has faced agony of protracted criminal proceedings for more than a decade.
- ii) The petitioner is alleged to have availed loan on forged documents but the charge of forgery was not established and the petitioner was acquitted of the same.
- iii) There is no instance of any other similar criminal offence during or after the instant case. The same shows that the petitioner has amended his ways and has found his way into the main stream.
- iv) The petitioner is now in his forties and has a young family to take care of and to support. Sending him in custody would destroy the family and future of the family and kids.
- v) The penal consequences needs to be neutralized so as

to balance the equities when a reformative conduct is on display, the penalty/sentence needs to be suitably modified to be indicative of giving premium for good conduct.

10. Taking into consideration, the facts noticed above and that the petitioner has faced the rigor of criminal prosecution for a period of more than 11 years since the registration of the FIR and as against the substantive sentence of 02 years, he has already undergone sentence of 01 year, 2 month and 15 days. I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded by the Judicial Magistrate First Class, Shaheed Bhagat Singh Nagar vide order dated 19.07.2018 is modified to the period already undergone. However, the sentence of fine awarded by the Courts below to sum of Rs.2000/- is increased to Rs.10,000/-.

11. All the pending miscellaneous application(s), if any, are also disposed of.

OCTOBER 27, 2025

Vishal Sharma

**(VINOD S. BHARDWAJ)
JUDGE**

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