

3. Brief facts of the case are that on 09.08.2017, ASI Lakhwinder Singh along with other police officials was present at Grain Market, Moga where Sukhwinder Singh son of Jarnail Singh resident of Mohalla Bhai Ka, No.6 along with Surinder Singh came and Sukhwinder Singh got recorded his statement before ASI Lakhwinder Singh to the effect that he is resident of above said address and is doing the work of preparation of sweets in the marriages. He has got two sons and two daughters. One of his son died last year. His another son Sunny was unmarried and doing labour work. On that day, he along with his friend Vicky went to pay obeisance at the place of Baba Gendi Ram by riding on their motorcycle bearing No.PB-29U-5727 make CD-100 at 2/2.30 p.m. He (complainant) along with Gurmail Singh son of Pal Singh followed them on motorcycle of said Gurmail Singh. When they reached near Navyug Public School on G.T. Road Jalandhar, a mini bus bearing registration no. PB-03D-4091 came from the opposite side and the driver of the said bus, who was driving the bus in a rash and negligent manner brought the same on the wrong side of the road and dashed into the motorcycle which was driven by his son Sunny and on which Vicky was pillion rider. Within a spur of movement, Vicky son of Dalip Singh died at the spot on account of injuries suffered by him in the said accident. His son also received multiple injuries. Their motorcycle also got damaged. He (complainant) along with Gurmail Singh reached the spot and with the help of other persons took care of Sunny and dead body of Vicky. A vehicle was arranged. They took Sunny to Civil Hospital Moga where he scummbed to his injuries. Complainant left his relatives near his son and went to inform the police along with Surinder Singh, who met them opposite Grain Market. Thereafter, he came to know that Mukhtiar Singh @ Mukha son of Lal Singh resident of Tare Wala was the

driver of the mini bus which caused the accident. The driver had run away from the spot after causing the accident. On the statement of the complainant, FIR (supra) was registered.

4. The petitioner was convicted and sentenced vide judgment and order dated 13.03.2020 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 10.08.2021.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 10.08.2021 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 07 months and 02 days, 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 09.08.2017 and the petitioner has been suffering the agony of protracted trial for last about 07 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 07 months and 02 days, 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 10.08.2021 passed by the learned Sessions Judge, Moga, affirming the judgment of conviction is upheld, however, the order of sentence dated 13.03.2020 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.2000/- imposed upon the petitioner is enhanced to Rs.6000/-.

(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