

2025:PHHC-015591



249 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2064-2022

Date of Decision: 03.02.2025

Basakha Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bikram Jit Singh Randhawa, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 20.08.2022 passed by learned Additional Sessions Judge, Rupnagar vide which, judgment of conviction and order on quantum of sentence dated 20.08.2018 passed by the learned Additional Chief Judicial Magistrate, Rupnagar in case bearing FIR No.10 dated 30.01.2013 under Section 420 of IPC, 1860 registered at Police Station Kurali, District Rupnagar, have been upheld.

2. The petitioner was sentenced as under:

Offence u/s	Sentence	Fine	In default of payment of fine
420 IPC	To undergo RI for 03 years.	Rs.1,000/-.	To undergo R.I. for a period of 06 months.

3. Brief facts of the case are that complainant Sanjeev Kumar filed a complaint against the petitioner and others to the Senior Superintendent of Police, SAS Nagar Mohali, in which he has alleged that petitioner told the

complainant that he is interested in selling his plot which is free from all sorts of encumbrances. The complainant, who was interested to purchase a plot was shown the plot of 4 Marlas comprised in Khasra No.70//29(2-18), Khewat No.785, Khatauni No.828 and agreement to sell the same was executed by the petitioner in favour of complainant in the presence of witnesses Gurpreet Singh Lamberdar, Kulwinder Singh, Krishan Pal and Kaka Singh on 25.04.2011 for consideration of ₹1,40,000/- by receiving ₹70,000/- as an earnest money and the sale deed was agreed to be executed and registered on 24.07.2011 by receiving the remaining consideration amount. The complainant came to know from someone that the petitioner had sold the said plot in question to someone else before 24.07.2011. Complainant approached the above named persons along with Krishan Pal and inquired about the same which was found correct. The petitioner told the complainant that he would return the double of earnest money i.e. ₹1,40,000/- or got the sale deed executed in his favour till 30.07.2011. The document in this regard was also executed in the presence of witnesses on 22.07.2011. On 30.07.2011 government holiday was declared and 31.07.2011 was also holiday, therefore, complainant went to Sub-Tehsil, Majri on 01.08.2011 for getting the sale deed registered after making the payment of balance sale consideration amount to the petitioner, but petitioner did not turn up to execute registered sale deed in favour of the complainant and when the complainant inquired from the petitioner, he has refused to execute registered sale deed in favour of complainant. Complainant called witnesses Gurpreet Singh and Kulwinder Singh to execute sale deed, but they have also refused to do any help to the complainant in this regard. On 02.08.2011, complainant requested petitioner for registration of the sale deed in his favour, but he has refused to do so and rather gave a threat to the complainant that he will get the

complainant kidnapped or eliminated. The petitioner having *malafide* intention had sold the plot in dispute which he had earlier agreed to sell the complainant and had received earnest money of ₹70,000/- from him by playing fraud and caused wrongful loss to the complainant. On the basis of this complaint, FIR (*supra*) was registered.

4. The petitioner was convicted and sentenced vide judgment and order dated 20.08.2018 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 20.08.2022.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 20.08.2022 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 01 year, 03 months and 23 days 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 30.01.2013 and the petitioner has been suffering the agony of protracted trial for last 12 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 01 year, 03 months and 23 days out of total sentence of 03 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 20.08.2022 passed by the learned Additional Sessions Judge, Rupnagar, affirming the judgment of conviction is upheld, however, the order of sentence dated 20.08.2018 is modified to the extent that the sentence of rigorous imprisonment for 03 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.5,000/- upon the petitioner.

(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.

03.02.2025

Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

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