

CRR-1602-2024 (O&M)1

260IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-1602-2024 (O&M)
Date of Decision: 25.03.2025

VINOD

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Niharika Singh, Advocate
for the applicant-petitioner.

Mr. A.K. Singla, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

CRM-34441-2024

This is an application under Section 5 of Limitation Act read with Section 528 of BNSS, 2023 for condonation of delay of 23 days in filing the revision petition.

Learned State counsel has not filed reply in spite of availing two opportunities as the notice in the present application was issued on 31.08.2024.

Keeping in view the grounds mentioned in the application, present application is allowed and delay of 23 days in filing the main revision petition, stands condoned.

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1. The present revision petition is preferred against the judgment dated 03.05.2024 passed by learned Additional Sessions Judge, Bhiwani vide which judgment of conviction and order on quantum of sentence dated 07.05.2018 passed by learned Sub Divisional Judicial Magistrate, Loharu, have been upheld, whereby, petitioner has been convicted and sentenced as under:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine



279 of IPC	Simple Imprisonment for six months	Rs. 1,000/-	Simple imprisonment for three months
304-A of IPC	Simple Imprisonment for two years	Rs. 1,000/-	Simple imprisonment for three months

2. Learned counsel for the petitioner contends that she is not assailing the impugned judgment of conviction dated 03.05.2024 passed by learned Additional Sessions Judge, Bhiwani on merits and restricts her prayer to modification of the order on quantum of sentence dated 07.05.2018 to that of sentence already undergone by the petitioner as he has already undergone almost half of the sentence awarded by the trial Court, as the petitioner has been convicted under Sections 304-A and 279 of Indian Penal Code and has already undergone sentence of 11 months and 24 days (including remission) out of total sentence of 02 years awarded to him and he is not involved in any other case.
3. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the said judgment has also been upheld by learned lower Appellate Court and as such, he does not deserve any leniency.
4. I have heard learned counsel for the parties and perused the record with their able assistance.
5. In **Deo Narain Mandal V/s 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



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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.

6. 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.

7. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and the said judgment 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 she has restricted her prayer only qua modification of quantum of sentence.

8. The FIR in the present case was registered on 09.07.2014 and the petitioner has been suffering the agony of trial since the last more 10 years. As per the custody certificate, the petitioner has undergone total sentence of 11 months and 24 days (including remission) out of total sentence of two years

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awarded to him and he is not involved in any other case. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

9. 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.

10. Consequently, the present petition is disposed of in the following terms:-

(i) The judgment of conviction dated 03.05.2024 passed by the learned Additional Sessions Judge, Bhiwani is upheld, however, the order of sentence dated 07.05.2018 is modified to the extent that the sentence of simple imprisonment for two years along with total fine of Rs. 2,000/- with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) The petitioner is stated to be confined in judicial custody. As such, he is ordered to be released forthwith, in case his custody is not required in any other case.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

25.03.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No