



Bhawan, Narnaul, District Mahendergarh against his account No.18951010049501. The petitioner told the complainant that he will repay the amount within short time. In case he failed to make the payment the complainant can produce the cheque in the bank for collection. The cheque was duly signed by the accused-petitioner and he assured that he will have sufficient amount in his account for the repayment. That the accused failed to repay the amount as promised and thereupon the cheque No.000014 dated 22.01.2018 was presented in the complainant's Sarva Haryana Gramin Bank, Branch Narnaul, Mohindergarh, Haryana for collection. The cheque was returned unpaid on the ground of "funds insufficient". Return memo dated 21.03.2018 was issued. Thereafter, the complainant informed the accused about the dishonour of above said cheque. Then due intimation and notice was given to the accused by the complainant through a legal notice on 05.04.2018. But the accused-petitioner neither replied nor made the payment of the cheque amount. Hence, the said complaint.

4. The petitioner was convicted and sentenced vide judgment dated 03.12.2019 passed by learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 01.09.2023.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 01.09.2023 on merits and restricts his prayer to modification of the order on quantum of sentence dated 03.12.2019 to that of the sentence already undergone by the petitioner. Petitioner has undergone a total period of 04 months and 03 days of imprisonment out of total sentence of one year awarded to him.

6. *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, which

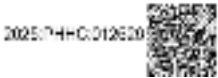


has also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency.

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 present complaint is of the year 2018 and the petitioner has been suffering the agony of protracted trial for last 6 years. Since his conviction, the petitioner has grown into law-abiding citizen and desire to live a peaceful life. Perusal of record indicates that, petitioner has undergone total custody of 04 months and 03 days out of total sentence of 1 year awarded to him.

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 01.09.2023 passed by the learned Additional Sessions Judge, Narnaul, affirming the judgment of conviction is upheld, however, the order of sentence dated 03.12.2019 is modified to the extent that the sentence of simple imprisonment for one year awarded to the petitioner is reduced to the period of sentence already undergone by him. However, the compensation as awarded by the learned trial Court would remain intact and respondent would be at liberty to recover the same in accordance with law.

January 28, 2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |