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& 01 connected case

2. These revision petitions have been preferred against the judgment dated 04.09.2023 passed by learned Additional Sessions Judge, Kapurthala, vide which, judgment of conviction and order on quantum of sentence dated 31.10.2017 passed by learned Additional Chief Judicial Magistrate, Kapurthala in case bearing FIR No.212 dated 08.09.2012 registered under Sections 420/193/200/468/465/471/120-B IPC at Police Station City Kapurthala have been upheld.

3. The petitioners were sentenced as under:

Petitioner's name	Offence under Section(s)	Sentence
Mela Singh	120-B IPC	RI for 03 years
	420 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	193 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	200 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	465 IPC	RI for 02 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	468 IPC	RI for 02 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	471 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
Kulwant Kaur	120-B IPC	RI for 03 years
	420 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	193 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.



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Kulwant Kaur	200 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	465 IPC	RI for 02 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	468 IPC	RI for 02 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	471 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
Manjit Singh	120-B IPC	RI for 03 years
	420 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	193 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	200 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	465 IPC	RI for 02 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	468 IPC	RI for 02 years with a fine of Rs.500/- in default to undergo RI for 02 days.
	471 IPC	RI for 03 years with a fine of Rs.500/- in default to undergo RI for 02 days.
It was ordered that all the sentences shall run concurrently.		

4. Brief facts of the prosecution case are that accused persons, namely Kulwant Kaur and Mela Singh, in connivance with each other, filed applications for exemption from personal appearance of accused Manjit Singh, on various dates of hearing before the trial Court in case bearing FIR No.105 dated 06.09.2009 under Sections 420/120-B IPC at Police Station Bholath, Kapurthala, despite having knowledge of the fact that accused Manjit Singh



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has moved to Dubai UAE. Hence, FIR (*supra*) was registered.

5. The petitioners were convicted and sentenced vide judgment and order dated 31.10.2017 passed by learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 04.09.2023.

6. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 04.09.2023 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioners. Petitioner-Kulwant Kaur has undergone a total period of 09 months and 22 days, including remission and custody after conviction. Petitioner-Manjit Singh has undergone a total period of 05 months and 02 days, including remission and custody after conviction. Petitioner-Mela Singh has undergone a total period of 01 year and 10 days, including remission and custody after conviction.

7. *Per contra*, learned State counsel opposes the prayer of the petitioners 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. He further submits that petitioner-Mela Singh was convicted in two more cases under Section 138 of Negotiable Instruments Act, 1881.

8. In rebuttal, learned counsel for the petitioners submits that in the year 2009, the cases filed under Section 138 of the Negotiable Instruments Act, 1881 were compounded by the learned lower Appellate Court.

9. I have heard learned counsel for the parties and perused the record with their able assistance.

10. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a Three



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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.

11. 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 petitioners has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.



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12. The FIR in the present case was lodged on 08.09.2012 and the petitioners have been suffering the agony of protracted trial for last 12 years. Since their conviction, the petitioners have grown into law-abiding citizens and desire to live a peaceful life. As per custody certificates, petitioners Kulwant Kaur and Manjit Singh are not involved in any other case. Petitioner-Kulwant Kaur has undergone a total period of 09 months and 22 days, including remission and custody after conviction. Petitioner-Manjit Singh has undergone a total period of 05 months and 02 days, including remission and custody after conviction. Petitioner-Mela Singh has undergone a total period of 01 year and 10 days, including remission and custody after conviction.

13. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

14. Consequently, the present petitions are disposed of in the following terms:-

(i) The judgment dated 04.09.2023 passed by the learned Additional Sessions Judge, Kapurthala, affirming the judgment of conviction is upheld, however, the order of sentence dated 31.10.2017 is modified to the extent that the sentence of rigorous imprisonment for 03 years along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them subject to the fine of an amount of Rs.10,000/- each upon the petitioners.

(ii) The petitioners are directed to deposit the amount of fine in the trial Court within one month from the date of receipt of

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certified copy of this order and in case of default of payment of fine, the petitioners shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

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

January 29, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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