

CRR-5820-2018 and one more case (O&M)

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261 **IN THE HIGH COURT OF PUNJAB & HARYANA**
AT CHANDIGARH

1. **CRR-5820-2018 (O&M)**
Date of Decision: 28.01.2025

BALDEV SINGH AND ANOTHER **...Petitioners**

Versus

STATE OF PUNJAB **...Respondent**

2. **CRR-203-2019 (O&M)**
Date of Decision: 28.01.2025

KARAMJIT SINGH AND OTHERS **...Petitioners**

Versus

PARAMJIT KAUR AND ANOTHER **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Inderpal Singh, Advocate
for the petitioners in CRR-5820-2018.

Mr. Manoj Kumar, Adocate for
the petitioners in CRR-203-2019.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This common order of mine shall dispose of both the
aforementioned revision petitions as same judgment of conviction and order of
sentence have been challenged in both the petitions.

2. These revision petitions have been preferred by the petitioners
against the judgment dated 05.12.2018 passed by learned Additional Sessions
Judge, Fatehgarh Sahib vide which judgment of conviction and order on
quantum of sentence dated 21.02.2015 passed by Additional Chief Judicial
Magistrate, Fatehgarh Sahib have been upheld, vide which all the petitioners
were convicted under Sections 120-B/419/467/468 and 471 of Indian Penal

3. Feeling aggrieved by the acts impersonation and forgery on the part of the accused-petitioners, who are stated to be the joint owners/co-sharers alongwith the complainant in respect of landed property bearing Khewat/Khatoni Nos. 289/702. Khasra Nos.76//1/2(3-16), 2/22(1-16), 16(8-0), Khatoni No.703, Khasra Nos.76//2/2/1(1-16), 1/1(1-16), 2/2 1(1-16), 1/1(1-16), 1/1/2(2-0), 2/1 2(2-0), Khatoni No.705 Khasra Nos.76/1/1/2(2-0), Khewat Khatoni Nos.214/398, Khasra Nos.76//2/1/2 (2-8) situated at Village Harbanspura, the complainant has come up with the complaint(supra) contending therein that in order to procure loan from The Fatehgarh Sahib Primary Co-Operative Agricultural Development Bank Limited, Sirhind, the accused-petitioners mortgaged their share in the joint land in favour of the said bank on 14.11.2003 vide mortgage deed Vasika No. 2924 without the consent and knowledge of the complainant, but managed the consent of the complainant on registered mortgage deed by setting up some impostor in place of the complainant Paramjit Kaur which mortgage deed was further witnessed by, accused Nos. 5 and 6 and in the backdrop of these brief averments, she filed the instant complaint against the accused for commission of offences punishable under Sections 420/467/468/471/120-B of the IPC. The said act on the part of the accused, it is averred, came to knowledge of the complainant only a few days prior to filing of the complaint when she obtained a copy of the Jamabandi from the Patwari and came across the entry with regard to mortgage of land by the accused persons whereafter she obtained certified copy of the mortgage deed from the Office of Sub Registrar,

AJAY GOSWAMI
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I attest to the accuracy and
integrity of this document

which further transpired that in the registered mortgage deed, the present com-



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plainant has been shown as a consenting co-sharer, who thumb marked the mortgage deed as well, which fact with regard to her consent qua mortgage is the core issue in dispute in the present complaint.

4. Learned trial Court after assessing the material on record convicted all the petitioners under Sections under Sections 120-B, 419, 467, 468 and 471 of Indian Penal Code and were awarded substantive sentence of rigorous imprisonment for two years along with total fine of Rs. 6,000/- each with default mechanism. Appeal filed against the said judgment of conviction and order of sentence was dismissed by learned Lower Appellate Court vide judgment dated 05.12.2018.

5. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 05.12.2018 passed by learned Additional Sessions Judge, Fatehgarh Sahib on merits and restricts his prayer to modification of the order of quantum of sentence dated 21.02.2015 to that of sentence already undergone by the petitioners as petitioner-Baldev Singh has already undergone a period of 02 months and 14 days including remission, petitioner-Dharampal Singh has already undergone a period of 02 months and 09 days, petitioner-Karamjit Singh has already undergone a period of 02 months and 10 days, petitioner-Gurcharan Singh has already undergone a period of 02 months and 10 days and petitioner-Sawarn Singh has already undergone a period 02 months and 10 days, out of substantive sentence of two years awarded to them.

6. Per contra, learned State counsel opposes the prayer of the petitioners 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, they do 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 lower

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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.

10. Perusal of record indicates that complaint in the present case was registered in the year 2012 and the petitioners have been suffering the agony of trial since the last 13 years. As per the custody certificate, petitioner-Baldev Singh has already undergone a period of 02 months and 14 days including remission, petitioner-Dharampal Singh has already undergone a period of 02 months and 09 days, petitioner-Karamjit Singh has already undergone a period of 02 months and 10 days, petitioner-Gurcharan Singh has already undergone a period of 02 months and 10 days and petitioner-Sawarn Singh has already undergone a period 02 months and 10 days, out of substantive sentence of two years awarded to them.

11. 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.

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

- (i) The judgment dated 05.12.2018 passed by the learned Additional Sessions Judge, Fatehgarh Sahib upholding the judgment of conviction dated 21.02.2015 passed by learned Additional Chief Judicial Magistrate, Fatehgarh Sahib is upheld, however, the order of sentence dated dated 21.02.2015 is modified to the extent that the substantive sentence of rigorous imprisonment for two years awarded to the

petitioners is reduced to the period of sentence already undergone by them.

(ii) Fine of Rs. 6000/- each imposed upon the petitioners is enhanced to Rs. 10,000/- each. The petitioners are directed to deposit the remaining 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 petitioners shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

- 13. Pending miscellaneous application(s), if any, shall also stand disposed of.
- 14. Photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

28.01.2025
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No