



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of decision: 23.03.2026

CRA-S-3405-SB-2011

RAJ KUMAR & ANOTHER

.....Appellants

VERSUS

STATE OF HARYANA

.....Respondent

CRA-S-128-SB-2012

MANGAL

.....Appellant

VERSUS

STATE OF HARYANA

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Sagar Aggarwal, Advocate
for the appellants.

Mr. Omkar Singh Wahla, Sr. DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

Both these appeals, arising out of the judgment of conviction
dated 05.12.2011 and order of sentence dated 07.12.2011 passed by the

Additional Sessions Judge, Sonipat in case bearing FIR No. 79 dated 16.03.2010 registered under Section 328, 392, 412, 120-B and 34 of the Indian Penal Code, 1860 at Police Station Kundli are being decided by a common judgment. However, for facility of reference, facts are extracted from CRA-S-3405-SB-2011.

2. Briefly stated, the complainant is the owner of a white coloured Innova car bearing registration No. DL-1YA-5228. Kuldeep Singh was employed by him as a driver. On 15.03.2010, one Bhim Singh booked the said car for a trip to Baddi for three persons, who boarded the vechile at about 8:30 pm. At about 3:30/4:00 a.m., the complainant received a telephone call from his driver Kuldeep, who informed him that near Sidhu Border, the car had been stopped for refuelling. Thereafter, he along with the passengers, consumed a Mazza drink which had been brought by some of the passengers. After some time, he started feeling giddiness, whereupon the passengers asked him to stop the car on the side of the road. Upon stopping the vechile, the passengers pointed a knife at his neck. One of the said persons tied his hands and legs and, after throwing him on the roadside, ran away with the vehicle. When the driver regained consciousness and untied himself, he found that the said persons had taken away his purse containing Rs. 1,000/-, his driving licence, his mobile phone bearing No. 09968338631, along with the car. Thereafter, he took a lift from a truck driver from Janti Road, Kundli, reached Azadpur Bypass, and informed the owner of the vehicle, i.e., the complainant.

3. Upon completion of the investigation, the challan was presented against the appellants and others before the competent Court. Copies of the

documents were supplied to the appellants as envisaged under Section 207 Cr.P.C.

4. On finding a prima facie case against the appellants, charges were framed vide order dated 12.08.2010 u/s 120-B, 328, 392 and Raj Kumar was also charged under Section 412 , IPC to which appellants pleaded not guilty and claimed trial.

5. On completion of procedural compliances, parties led their respective evidence. Prosecution examined as many as 15 witnesses and evidence was thereafter closed

6. The entire evidence was put to appellants and statements under Section 313, Cr.P.C were recorded. The appellants denied the same. However, no defence evidence was led.

7. On consideration of evidence and hearing the arguments, the appellants were convicted under Sections 328, 392 and 120-B, IPC vide judgment of conviction dated 5.12.2011 and order of sentence dated 7.12.2011. Hence, the present appeal

8. At the outset, learned counsel for the appellants submits that he doesn't want to challenge the judgment on merits and confines his prayer and arguments only to the quantum of sentence awarded. He contends that the appellants sentence was suspended by this Court vide orders dated 15.01.2013 and 18.09.2012 respectively. He contends that the FIR in the present case was registered in 2010 and 16 years have elapsed since then. The appellants have faced the agony of protracted criminal proceedings for more than 16 years and they have no other criminal antecedents. Counsel

further contends that the accused-Satish has already undergone an actual

custody of more than 02 years, 01 month and 25 days and accused-Raj Kumar has already undergone an actual custody of 02 years 09 months and there is nothing on record to suggest that the appellants have misused the concession of suspension of sentence that had been awarded to them.

9. On the other hand, the learned State counsel, while opposing the submissions advanced on behalf of the appellant, has argued that the prosecution has successfully established the guilt of the appellant through cogent, reliable, and convincing evidence brought on record during the trial. It is further contended that the offence committed by the appellants is of serious nature and, therefore, calls for the imposition of a stringent sentence. The learned State counsel submits that leniency in such cases would send a wrong signal to society and undermine the administration of criminal justice. Hence, it is imperative that adequate and deterrent punishment be imposed to ensure that such acts do not recur and to maintain public confidence in the rule of law.

10. I have heard learned counsel representing the parties and have gone through the case record.

11. Since the appellants have given up the challenge to the judgment of conviction on merits, the said issues are not being gone into at this stage. The discussion is thus solely restricted to the issue of sentencing and quantum of punishment.

12. A two judge bench of the Hon'ble Supreme Court in **Mohd Giasuddin v. State of AP, AIR 1977 SC 1926**, speaking through Justice V.R. Krishna Iyer has observed as under:

9. *It is thus plain that crime is a pathological*

aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturisation. Therefore, the focus of interest in penology is the individual, and the goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore, consider a therapeutic, rather than an “in terrorem” outlook, should prevail in our Criminal Courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw: “If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries.”.....

13. The Hon'ble Supreme Court in the matter of **Pramod Kumar Mishra Vs. State of UP (2023) 9 SCC 810**, observed that punishment must not be viewed as an act of vengeance but as a means of reformation and reintegration of the offender into society. It was further held that an appropriate sentence must be determined by considering a range of factors, including the nature and circumstances of the offence, the offender's background, age, mental and emotional condition, potential for rehabilitation, prior criminal record, and the deterrent needs of the community. Sentencing, the Court noted, involves a delicate exercise of judicial discretion where multiple social, psychological, and moral factors must be balanced to ensure that justice serves both societal protection and individual redemption.

upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court to extend opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the immediate collectives also has to be examined.

15. It is well settled that the object of punishment is not merely to deter but also to reform, and where an offender demonstrates sincere remorse and rehabilitation, the emphasis must shift from retribution to reintegration into society.

16. The case in hand is yet another where interest of justice would warrant a reformatory approach in precedence to a punitive or retributive approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the law aligns with their own best interests.

17. Adverting to the facts of the present case and the mitigating circumstances as pointed out by counsel for the appellants, it is established that the appellants have undisputedly faced the agony of a criminal trial for a period of 16 years. Besides, accused-Satish has already undergone actual custody of more than 02 years, 01 month and 25 days, accused-Raj Kumar has already undergone an actual custody of 02 years 09 months and accused Mangal has already undergone actual custody of more than 02 years. There is also no material to show that the appellants have indulged in any other

crime after their release on bail. They have thus shown a reformative tendency.

18. Thus, this Court is of the opinion that sufficient mitigating circumstances exist in the present case and the same call for interference and modification in the sentence, under the above peculiar circumstances.

19. Taking into consideration the facts relied upon by the appellants, I thus deem it appropriate to **partly allow the appeals**. While maintaining the judgment of conviction, the order of sentence is modified. The sentence awarded by the Additional Sessions Judge, Sonipat, vide order dated 07.12.2011, is modified and reduced to the period already undergone.

20. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 23, 2026
Vishal Sharma

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