



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRR-913-2025 (O&M)
Date of decision: 23.01.2026

Vishal Kumar @ Shelly ...Petitioner(s)

VERSUS

State of Punjab ...Respondent(s)

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

Present :- Mr. Harshit Jain, Advocate for the petitioner(s).

Mr. Kuljinder Singh Dhindsa, AAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant criminal revision petition has been preferred against the judgment of conviction and order of sentence dated 14.08.2018 passed by the Sub-Divisional Judicial Magistrate, Dhuri, as well as the judgment dated 10.03.2025 passed by the Additional Sessions Judge, Sangrur, vide which the appeal filed by the petitioner was dismissed. The petitioner was sentence vide order dated 14.08.2018 as under:-

Under Section	Sentence
411 of the Indian Penal Code, 1860	Rigorous imprisonment for 03 years and fine of Rs.10,000/- and in default thereof to further undergo RI for a period of 06 months.

2. Briefly stated, the facts of the present case are that on 08.10.2016, ASI Ranjit Singh, along with other police officials, was present at Bhagat Singh Chowk, Dhuri, where the complainant, Jai Gopal, recorded



his statement. He stated that on 05.10.2016, at about 4:30 a.m., as per his daily routine, he had gone for his morning walk and upon returning at about 5:30 a.m., he found that his scooty bearing registration No. PB-13-AT-6780, make Maestro Edge, white in colour, model year 2016, having Chassis No. MBLJF00AAG4E17795 and Engine No. JF33AAG4E17668, was missing. He alleged that some unknown persons had stolen the said scooty. On the basis of the said statement, a formal FIR was registered on 08.10.2016. The Investigating Officer thereafter prepared the site plan of the place of occurrence. Subsequently, the accused was arrested by officials of Police Station City Sunam in connection with FIR No. 132 of 2016 registered under Section 21 of the NDPS Act, during which the stolen scooty of the complainant along with 50 grams of smack was recovered from his possession. Thereafter, the accused was formally arrested in the present case and the offence under Section 411 of the Indian Penal Code was added. After completing all necessary formalities, the Investigating Officer concluded the investigation and presented the challan against the accused.

3. On appearance of the accused, copies of documents as envisaged under Section 207 of the Code of Criminal Procedure were supplied to him, free of costs.

4. Finding a prima facie case having been made out, the petitioner was charge-sheeted for commission of offences punishable under Sections 454, 411, 380 of the Indian Penal Code, 1860 and the contents of the same were read over the and explained to the accused, to which he pleaded not guilty and claimed trial.



5. In order to substantiate its case, the prosecution examined six witnesses and closed the prosecution evidence:

PW-1	Gopal (Complainant
PW-2	Jagpreet Singh, Clerk DTO Office, Sangrur.
PW-3	HC Kewal Singh.
PW-4	ASI Ranjit Singh.
PW-5	ASI Jaswinder Singh.

6. The statement of the petitioner was recorded under Section 313 of the Code of Criminal Procedure, wherein all incriminating circumstances and evidence appearing on record were put to him. The petitioner denied the allegations in their entirety, described the prosecution case and evidence as false and fabricated, and asserted his innocence.

7. No defence evidence/witness was produced by the accused during the phase of his defence evidence.

8. After considering the arguments advanced, the testimonies of witnesses, and the evidence placed on record, the Trial Court, vide judgment dated 14.08.2018, held the petitioner guilty of offences punishable under Section 411 of the Indian Penal Code, 1860.

9. Aggrieved by the aforesaid judgment of conviction and order of sentence, the petitioner preferred Criminal Appeal No. 448 of 10.10.2018 before the Court of the Additional Sessions Judge, Sangrur. Vide judgment dated 10.03.2025, the petitioner’s appeal was dismissed. Hence, the present revision petition.



10. Learned Counsel for the petitioner-revisionist vehemently argues that petitioner has been falsely implicated in the present case. Moreover, the prosecution has failed to establish that petitioner had knowledge or reason to believe that the scooty in question was stolen. Mere possession of the vehicle doesn't constitute the offence unless dishonest intention is proved beyond reasonable doubt.

11. After arguing the revision for some time, learned counsel for the petitioner contends that the petitioner has been in custody since 04.11.2016 and has undergone an actual sentence of 01 year and 9 days, he would not press the present revision petition on merits and contends that he would confine his challenge only to the quantum of punishment that has been so awarded. The following mitigating circumstances are pointed out by the counsel for the petitioner.

- (i) The incident in question occurred in October-2016, and nearly 9 ½ years have since elapsed. At the time of the incident, the petitioner was approximately 21 years old.
- (ii) The petitioner has endured the ordeal of a prolonged criminal trial spanning over nine years.
- (iii) The petitioner is a young man aged 30 years and continued criminal prosecution and incarceration are likely to cause grave and disproportionate prejudice to him in the discharge of his social, familial, and professional obligations

12. State counsel, on the other hand, contends that both the Courts have examined the evidence brought on record and concurrently recorded a



finding of conviction against the petitioner. In a revisional jurisdiction, neither a new line of defence can be adopted nor any reappraisal of the evidence can be undertaken. No illegality or perversity has been pointed out by the petitioner, hence, no occasion would call for upsetting the findings recorded or the sentence awarded and affirmed by the Courts.

13. I have heard learned counsel for the parties and have gone through the impugned judgments.

14. In the present case, there is nothing on record to reflect that the petitioner possesses a criminal bent of mind or that his conduct poses any threat to society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against him.

15. The Hon'ble Supreme Court has laid down certain principles to govern the Courts in the matter of sentencing. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in the matter of **State of Punjab Vs. Prem Sagar & Ors (2008) 7 SCC 550**. The relevant extract of the said judgment is reproduced hereinbelow: -

5. 'Whether the Court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India.



6. *There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.*

7. *A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice-delivery system. Parliament, however, in providing for a hearing on sentence, as would appear from sub-section (2) of Section 235, sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.*

8. *Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.*

9. *What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The Superior Courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to*



be different. Similar discrepancies have been noticed in regard to imposition of fine.

10. In Dhananjoy Chatterjee Alias Dhana v. State of W.B. [(1994) 2 SCC 220], this Court held:

"15...Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime..."

11. Gentela Vijayavardhan Rao and Another v. State of A.P. [(1996) 6 SCC 241], following Dhananjoy Chatterjee (supra), states the principles of deterrence and retribution but the same cannot be categorized as right or wrong. So much depends upon the belief of the judges.

12. In a recent decision in Shailesh Jasvantbhai and Another v. State of Gujarat and Others [(2006) 2 SCC 359], this Court opined:

"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet



the challenges confronting the society. Friedman in his Law in Changing Society stated that: "State of criminal law continues to be--as it should be--a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

Relying upon the decision of this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471], this Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.

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18. Don M. Gottfredson in his essay on "Sentencing Guidelines" in "Sentencing by Hyman Gross and Andrew von Hirsch" opines:

"It is a common claim in the literature of criminal justice and indeed in the popular press that there is considerable "disparity" in sentencing. The word "disparity" has become a prerogative and the concept of "sentencing disparity" now carries with it the connotation of biased or insidious practices on the part of the judges. This is



unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase "unwarranted disparity" may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored for consistency and desirability over time. Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment- that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

[Emphasis supplied]

The learned author further opines:

"In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence."

19. Kevin R. Reitz in Encyclopedia of Crime and Justice, Second edition "Sentencing guidelines" states:

"All guideline jurisdictions have found it necessary to create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are



potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted ("conviction offenses"), or whether a guideline sentence should also reflect additional alleged criminal conduct for which formal convictions have not been obtained ("non-conviction offenses").

Another difficult issue of fact-finding at sentence for guideline designers has been the degree to which trial judges should be permitted to consider the personal characteristics of offenders as mitigating factors when imposing sentence. For example: Is the defendant a single parent with young children at home? Is the defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline states, once again including all jurisdictions with voluntary guidelines, allow trial courts latitude to sentence outside of the guideline ranges based on the Judge's assessment of such offender characteristics. Some states, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. (However, such factors may indirectly affect the sentence, since judges are permitted to base departures on the offender's particular 'amenability' to probation (Frase,



1997).)"

20. *Andrew von Hirsch and Nils Jareborg have divided the process of determining sentence into stages of determining proportionality while determining a sentence, namely:*

1. *What interests are violated or threatened by the standard case of the crime- physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.*

2. *Effect of violating those interests on the living standards of a typical victim- minimum well-being, adequate well-being, significant enhancement*

3. *Culpability of the offender*

4. *Remoteness of the actual harm as seen by a reasonable man.'*

16. 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.

17. The fundamental purpose of imposition of sentence is based



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 an 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.

18. A nine judge bench of the Supreme Court of the United States, in *Dennis Councle McGautha v. State of California* reported as 402 U.S. 183 (1971), observed that the criteria governing sentencing neither furnish an exhaustive list of relevant considerations nor indicate how various circumstances should influence the decision-making process. In essence, these standards merely suggest broad areas for consideration and underscore the inherent difficulty in formulating uniform sentencing principles, particularly in matters of grave offences. The Court further cautioned against rigidly prescribing or mandating uniform standards for sentencing, emphasizing that the principles governing punishment must depend upon the facts and circumstances of each individual case, and that no straightjacket formula can be universally applied.

19. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a



necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

20. 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.

21. Taking into consideration, the facts noticed above and considering that the petitioner has faced the rigor of criminal prosecution for more than a decade since the registration of the FIR and as against the substantive sentence of 3 years, he has already undergone sentence of 1 year and 9 days, I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded under Section 411 of the Indian Penal Code, 1860 by the Sub Divisional Judicial Magistrate , Dhuri vide judgment dated 14.08.2018 and upheld by Additional Sessions Judge, Sangrur vide judgment dated 10.03.2025, is modified to the period already undergone. The petitioner be released from custody, if not required in any other case. The sentence of fine awarded by the Courts to a sum of Rs.10,000/- is however increased to Rs.15,000/-, failing which he shall undergo the default punishment, as ordered.



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- 22. The petition is accordingly *partly allowed*.
- 23. Pending criminal misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

23.01.2026
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No