HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 7014 of 2025

Murtaja Ali

.....Revisionist(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Krishna Mohan Tripathi, Krishna Dutt Tiwari
Counsel for Opposite Party(s)	:	G.A., Syed Faiz Hasnain

Court No. - 86

HON'BLE JAI KRISHNA UPADHYAY, J.

1. Heard Mr. Krishna Mohan Tripathi, learned counsel for the revisionist, Mr. Dheer Pal Singh, Advocate, holding brief of Mr. Syed Faiz Hasnain, learned counsel for opposite party no. 2 and learned AGA for the State.

2. This criminal revision has been filed against the judgement and order dated 30.09.2025 passed by Additional Sessions Judge, Court No. 3, Moradabad in Criminal Appeal No. 59 of 2023 and order dated 27.05.2023 passed by A.C.J.M., Court No. 5, Moradabad in Criminal Case No. 28 of 2017 (Computer Case No. 204/2017), P.S. - Mundapandey, District - Moradabad convicting & sentencing to the revisionist three years imprisonment for Section 420 IPC, fine Rs. 2000/-, Seven Years imprisonment for Section 467 IPC, fine Rs. 5000/-, and Five Years imprisonment for Section 468 IPC, Fine Rs. 2000/- and one year imprisonment for Section 471 IPC, fine Rs. 1000/-.

3. It is submitted by learned counsel for the revisionist that the trial court has imposed maximum sentence of 7 years, out of which the revisionist has served the sentence of about 18 months. The revisionist is young man of 27 years and has a good time to make his future ahead, therefore, it would not be proper to sent him to jail. It is also submitted that neither revisionist is habitual offender nor was convicted in any other case. Thus, it was submitted by learned counsel for the revisionist that sentence

awarded by the trial Court vide impugned judgment and order be modified and accused-revisionist be released in this matter on the basis of imprisonment already undergone.

4. On the other hand, learned A.G.A. supporting the findings recorded by trial Court in the impugned judgment and order submitted that there is no infirmity or illegality in the impugned judgement and order. Prosecution has proved its case beyond reasonable doubt. The trial Court has awarded sentence to the revisionist according to the gravity of the offence committed by him. Learned counsel for opposite party no. 2 submits that he has no objection if the case is decided on the basis of the period already undergone.

5. I have considered rival submissions made by learned counsel for the parties and have gone through the entire record carefully.

6. Since learned counsel for the accused appellant did not challenge the findings recorded by trial Court in the impugned judgment and order regarding guilt of accused-revisionist for the alleged offences and confined his argument only to the sentence awarded by trial Court to accused-revisionist, I do not propose to scrutinize the entire evidence minutely in this regard. However, a perusal of entire record including the impugned judgment and order shows that trial Court has considered in detail the entire evidence available on record regarding guilt of accused-revisionist for the said offences and keeping in view the offence committed by accused-revisionist, I am also of the opinion that prosecution was able to establish the guilt of accused-revisionist for the aforesaid offences beyond reasonable doubt. The findings recorded by the trial Court to constitute offence under the aforesaid sections against accused-revisionist is correct and the same do not warrant interference by this Court.

7. So far as the question of sentence is concerned, it is a well settled principle that sentence must be just and should simultaneously follow the principle of proportionality between the crime and the punishment. Punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence.

A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the court but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, manner of assault, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect - propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the valuebased social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner.

8. It has been observed by the Apex Court that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion. Neither the personal perception of a Judge nor selfadhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. The real requisite is to weigh the circumstances in which the crime has been committed and other concomitant factors which have been indicated hereinbefore and also have been stated in a number of pronouncements by Apex Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment. A court, while imposing sentence, has to keep in view the various complex matters in mind. In respect of certain offences, sentence can be reduced by giving adequate special reasons but the special reasons have to rest on real special circumstances.

9. Recently in the case of **Israfil @ Pappu @ Naimuddin Khan Vs. State of Madhya Pradesh, 2026 INSC 654,** the Apex Court held that while considering the question of sentence, the Court is required to balance the nature of the offence with the attendant facts and circumstances of the case, the role attributed to the accused, the period of

incarceration undergone, the passage of time and other mitigating circumstances relevant to sentencing jurisprudence. The principle of proportionality remains central to the sentencing process. Sentencing cannot be reduced to a purely retributive exercise divorced from the factual matrix of the case and the overall circumstances of the offender. The Apex Court, in catena of cases before it, while maintaining conviction, had exercised its discretion and had reduced the substantive sentence considering long passage of time, absence of criminal antecedents and other mitigating circumstances.

10. In the instant case, it has been more than 10 years since the alleged incident took place. Revisionist is not previous convict. Revisionist was on bail during trial of the case as well as during the pendency of the criminal appeal before the appellate court and he had never misused the liberty of bail granted to him. It was stated that accused-revisionist remained in custody for more than 18 months. Since the revisionist is a young boy of 27 years and he has a good time ahead to make a better future, therefore, it would be unjust to sent him to jail. Considering all aspects of the matter, no useful purpose would be served by sending accused-revisionist to judicial custody at this stage, rather it would be appropriate that sentence of maximum 7 years imprisonment awarded by the lower appellate Court be reduced to the period already undergone by the revisionist along with fine of Rs. 1000/-.

11. Accordingly, this criminal revision is **partly allowed** and the sentence awarded by the lower appellate Court is hereby reduced to the period already undergone in jail. The revisionist is directed to deposit fine of Rs. 1000/- within two months from today. In default of payment of fine, accused-revisionist shall undergo imprisonment of fifteen days. He is in jail, if not wanted in any other case, he be released forthwith. His personal/surety bonds, if any, are discharged upon payment of fine.

12. A copy of this order be transmitted to the court concerned.

October 24, 2026
S.K.S.

(Jai Krishna Upadhyay,J.)

Digitally signed by :-
SUNIL KUMAR SINGH
High Court of Judicature at Allahabad