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

CRR-3678-2014 (O&M)

Date of Decision: 17.01.2025

SUNDER LAL SAINI AND ANOTHER

...Petitioners

V/S

RATI RAM AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nariender Pal Nain, Advocate for
Mr. Tanvir Singh Grewal, Advocate for the petitioners.

Mr. K.S. Dhaliwal, Advocate
for respondent No. 1.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Present revision petition has been preferred by the petitioner against the judgment dated 16.02.2011/17.02.2011 passed by learned Judicial Magistrate Ist Class, Pehowa vide which the petitioners were convicted under Sections 467, 468, 471 and 120-B of Indian Penal Code and awarded substantive sentence of rigorous imprisonment for one year with total fine of Rs. 3,000/- with default mechanism. In the appeal filed against the aforesaid order, learned Additional Sessions Judge, Kurukshetra vide judgment dated 05.11.2014 upheld the conviction passed by the trial Court but modified the order of sentence to the effect that sentences awarded to petitioners Sunder Lal Saini and Joginder Lal Saini were reduced from one year to nine months period.

2. Prosecution story in brief is that complainant was the owner in possession of the land as mentioned in para No.1 of the complaint and said



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land was being irrigated and cultivated by the sons of complainant and said land abuts to the killa line of the land of accused No.2. On 16.09.2001 at about 10.30 a.m., when the son of complainant Ram Lal was working in his fields, accused No.1-petitioner No. 1 Sunder Lal armed with a *gandasi* and accused No. 2 to 5 armed with *lathies* came to the fields of complainant and petitioner No.1 raised a *lalkara* to teach a lesson to the son of complainant for not giving the land on lease to him and the son of complainant Ram Lal requested the accused persons not to be furious and told the accused persons that his father is not willing to give his land to petitioner No.1 on lease, but accused persons did not listen the request of Ram Lal and they started beating Ram Lal. Petitioner No.1 gave a *gandasi* blow which hit on the left arm of Ram Lal and all other accused persons started giving *lathi* blows on the person of Ram Lal which hit the lower lip, arms and legs of Ram Lal. Ram Lal raised a hue and cry for help who was rescued by Nasib Ram and by Parkash Puri whose land was also situated near the land of complainant. All the accused persons further threatened Ram Lal that if he will tell about the said incident to anyone or the police then he will be finished. Thereafter, Ram Lal came to his house in a state of fear and later on uncle of Ram Lal, Prem Chand took Ram Lal to P.H.C. Jhansa for medical examination. The matter was reported to the police on the same day but police in spite of taking any action against the accused persons due to their political influence, had falsely implicated Ram Lal and eight other persons in criminal case titled "***State vs. Ram Lal etc.*** vide F.I.R. No.79 dated 16.9.2001". On 13.1.2004, the complainant came to know that all the accused persons in collusion with each other had prepared a false, forged



and fabricated receipt dated 10.6.2001 alleged to be executed by the complainant in favour of petitioner No.1 written by accused No. 2 Joginder Lal and signed by accused No. 3 and 4 as witnesses and in the said forged receipt dated 10.06.2001. It has been shown that complainant had given his land measuring 9 kanals on lease to petitioner No.1 w.e.f. 10.06.2001 to 10.6.2002 for a consideration of Rs. 12,375/-. Accused persons on the basis of said forged receipt falsely implicated the sons of complainant and other persons as genuine purported to be executed by the complainant by using the said forged receipt in case FIR No.79 dated 16.09.2001 but the complainant never put his thumb impression on the said alleged receipt and said receipt is false, forged and fabricated and prepared by all the accused persons in collusion with each other.

3. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 05.11.2014 passed by learned Additional Sessions Judge, Kurukshetra on merits and restricts his prayer to modification of the order of quantum of sentence dated 05.11.2014 to that of sentence already undergone by the petitioners as they have already undergone a period of 01 month and 09 days and not involved in any other case.

4. 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 does not deserve any leniency. However, he could not controvert the fact that petitioners are not involved in any other case.



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

6. In **Deo Narain Mandal v. State 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.

7. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and the said



judgment 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.

8. Perusal of record indicates that complaint(supra) was filed in the year 2004 and petitioners have has been suffering the agony of trial since the last 20 years. As per the custody certificate, the petitioners have undergone total sentence of 01 month and 09 days out of rigorous imprisonment of nine months awarded to them and they are not involved in any other case.

9. 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.

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

(i) The judgment dated 05.11.2014 passed by the learned Additional Sessions Judge, Kurukshetra upholding the judgment of conviction dated 16.02.2011 passed by learned Judicial Magistrate Ist Class, Pehowa is upheld, however, the order of sentence dated 05.11.2014 is modified to the extent that the sentence of rigorous imprisonment for nine months awarded to the petitioners is reduced to the period of sentence already undergone by them.

(ii) Fine of Rs. 3,000/- imposed upon the petitioners is enhanced to Rs. 10,000/-. The petitioners are directed to deposit the amount of fine in the trial Court within one month from the date of



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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.

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

17.01.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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