

**CRA-S-2517-SB-2004**  
**CRA-S-157-SB-2005**

**-1-**

2025:PHHC:045344



102

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

**Date of decision: 03.04.2025**

**1. CRA-S-2517-SB-2004 (O&M)**

**Sushil @ Sheela**

**... Appellant**

**Vs.**

**State of Haryana**

**... Respondent**

**2. CRA-S-157-SB-2005 (O&M)**

**Rajesh Kumar**

**... Appellant**

**Vs.**

**State of Haryana**

**... Respondent**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. B.S. Mamli, Advocate for  
Mr. R.S. Mamli, Advocate  
for the appellant (in CRA-S-2517-SB-2004).

Mr. J.S. Saneta, Advocate  
for the appellant (in CRA-S-157-SB-2005).



Ms. Geeta Sharma, DAG, Haryana.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. This common judgment shall dispose of aforementioned both the appeals preferred against the judgment of conviction dated 09.11.2004 and the order of sentence dated 11.11.2004 passed by learned Additional Sessions Judge, Panipat, in FIR No.996 dated 18.10.1997 under Sections 399 & 402 of the Indian Penal Code (for short 'IPC'), registered at Police Station City Panipat.

2. Both these appeals arise out of same impugned judgment of conviction, on identical factual matrix. However, for the sake of brevity, facts are culled out from CRA-S-2517-SB-2004.

3. The appellants were convicted under Sections 399 & 402 of IPC for committing the dacoity and were sentenced to undergo rigorous imprisonment for a period of five years and to pay a total fine of Rs.8,000/- each along with default mechanism.

4. Learned counsel for the appellants, at the very outset, contend that they are not assailing the impugned judgment of conviction dated 09.11.2004 on merits and restrict their prayer only qua modification of the order of sentence dated 11.11.2004, to that of the sentence already

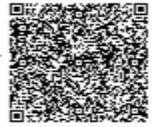


undergone by the appellants, as they have already undergone actual sentence of 05 months and 26 days, out of total sentence of 06 months and 04 days and are not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer made by the appellants, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, they do not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellants were convicted under Sections 399 & 402 of IPC, for which no minimum punishment has been prescribed. As per their custody certificates, the appellants are not involved in any other case and they have already undergone the total sentence of more than 06 months and 04 days in the instant case. Since there is no minimum punishment prescribed under Sections 399 & 402 of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

7. In *Deo Narain Mandal Vs. State of U.P., (2004) 7 SCC 257*, 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.

8. Further, the Hon'ble Supreme Court in *Ravada Sasikala Vs. 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 learned trial Court indicates no perversity in its findings and the same is based on correct



appreciation of evidence available on record. However, the FIR (*supra*) was lodged on 18.10.1997 and the appellants have been suffering the agony of trial for last more than 27 years. Since their conviction, the appellants have grown into law-abiding citizens and desire to live a peaceful life.

10. Consequently, both these appeals are disposed of and the judgment of conviction dated 09.11.2004 passed by learned Additional Sessions Judge, Panipat is upheld, however, the order of sentence dated 11.11.2004 is modified to the extent that the sentence of rigorous imprisonment for a period of five years and total fine of Rs.8,000/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

11. All the pending miscellaneous application(s), if any, shall also stand disposed of.

12. Photocopy of this judgment be placed on file of connected case.

03.04.2025  
*vishnu*

[ HARPREET SINGH BRAR ]  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No