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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2006-2008 (O&M)

Date of Decision: 04.04.2025

HARBHAJAN LAL @ BHAJU AND ANOTHER

...PETITIONERS

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.P. Dhir, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. The prayer in the present petition is to set aside the judgment dated 27.08.2008 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur vide which judgment of conviction and order on quantum of sentence dated 22.03.2001 passed by learned Additional Chief Judicial Magistrate, Hoshiarpur have been partly upheld, whereby the petitioner-Harbhajan Singh @ Bhaju was convicted under Sections 326 and 324 of Indian Penal Code, 1860 (hereinafter to be referred as 'IPC') and petitioner-Rachhpal @ Pala was convicted under Sections 324 and 326 read with Section 34 of IPC in the case stemming from FIR No. 226 dated 18.11.1997 registered at Police Station Sadar, Hoshiarpur.

2. The order on quantum of sentence awarded by the trial Court was modified by learned lower Appellate Court and the petitioners were sentenced as mentioned below:

Name of the petitioner	Offence under Section	Sentence	Fine	Sentence in default of payment of fine

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Harbhajan Lal @ Bhaju	326 of IPC	Rigorous Imprisonment for one year	Rs. 1,000/-	Rigorous imprisonment for 02 months
	324 of IPC	Rigorous Imprisonment for 06 months	Rs. 500/-	Rigorous imprisonment for 01 month
Rachhpal @ Pala	324 of IPC	Rigorous Imprisonment for 06 months	Rs. 500/-	Rigorous imprisonment for 01 month
	326 read with Section 34 of IPC	Rigorous Imprisonment for 06 months	Rs. 500/-	Rigorous imprisonment for 01 month

All the sentences were ordered to run concurrently.

3. Learned Counsel for the petitioners submits that he is not assailing the impugned judgment of conviction dated 27.08.2008 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur on merits and restricts his prayer to modification of the order on quantum of sentence dated 27.08.2008 to that of sentence already undergone by the petitioners as petitioner-Harbhajan Lal @ Bhaju has already undergone a period of 11 months and 30 days (including remission) and petitioner-Rachhpal Singh @ Pala has already undergone a period of 05 months and 29 days (including remission) out of total sentence of 01 year and 06 months, respectively, imposed upon them.

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 and the said judgment has also been upheld by learned lower Appellate Court and as such, petitioners do not deserve any leniency.

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

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6. In **Deo Narain Mandal v. 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.

7. 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.

8. 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. It transpires that the petitioners were convicted under Sections 324, 326 and 324, 326 read with Section 34 of IPC, respectively, for which no minimum punishment have been

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prescribed. The FIR in the present case was lodged on 18.11.1997 and the petitioners have been suffering the agony of trial since the last more than 27 years. As per their custody certificates, petitioner-Harbhajan Lal @ Bhaju has already undergone a period of 11 months and 30 days (including remission) and petitioner-Rachhpal Singh @ Pala has already undergone a period of 05 months and 29 days (including remission) out of total sentence of 01 year and 06 months, respectively, imposed upon them. 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 order on quantum of sentence. Since there is no minimum punishment prescribed under Sections 324, 326 read with Section 34 of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentences awarded to the petitioners are reduced to the period already undergone by them. Since their conviction, the petitioners have reformed into law-abiding citizens and desire to live peaceful lives.

9. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentences awarded to the petitioners are reduced to the period already undergone by them.

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

- (i) The judgment of conviction dated 27.08.2008 passed by the learned Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur is upheld, however, the order of sentence dated 27.08.2008 is modified to the extent that the substantive sentence of rigorous imprisonment for 01 year and 06 months respectively, and total fines of Rs. 1,500/- and Rs. 1,000/- respectively, with default mechanism is reduced to the period of sentence already undergone by the petitioners.



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

(HARPREET SINGH BRAR)
JUDGE

04.04.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No