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

**CRA-S-2366-SB-2004 (O&M)
Date of decision: 21.04.2025**

Sher Singh and another

... Appellants

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

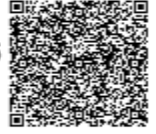
Present: Mr. Tajender Joshi, Advocate
for the appellants.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction and the order of sentence dated 20.07.2004 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur, in FIR No.45 dated 18.03.2002 under Sections 308, 323, 34 of the Indian Penal Code (for short 'IPC'), registered at Police Station Bhawanigarh, vide which the appellants were convicted and sentenced, for making an attempt to commit culpable homicide and voluntarily causing hurt, as mentioned below:

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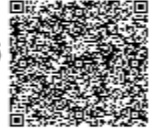


	Offence	Sentence
Sher Singh	under Sections 308 & 323 of IPC	Rigorous imprisonment for a maximum period of four years and to pay a total fine of Rs.1500/- along with default mechanism.
Charna Singh	under Section 308 read with Section 34 of IPC and Section 323 of IPC	Rigorous imprisonment for a maximum period of four years and to pay a total fine of Rs.1500/- along with default mechanism.

2. It is pertinent to mention here that during pendency of the appeal, appellant No.2 Charna Singh died on 10.11.2015 and vide order dated 30.01.2024, present appeal qua him stands abated.

3. Learned counsel on behalf of appellant No.1 contends that he is not assailing the impugned judgment of conviction dated 20.07.2004 on merits and restricts his prayer qua modification of the order of sentence, to that of the sentence already undergone by appellant No.1 Sher Singh, as he has already undergone total sentence of 01 year, 09 months and 26 days, which includes actual sentence of 08 months 21 days, out of rigorous imprisonment of four years and is not involved in any other criminal activity.

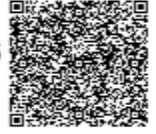
4. *Per contra*, learned State counsel produces the custody certificate dated 20.04.2025 of appellant No.1 in the Court today, which is taken on



record. He opposes the prayer by appellant No.1, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that appellant No.1 was convicted under Sections 308 & 323 of IPC, for which no minimum punishment has been prescribed. As per his custody certificate, appellant No.1 is not involved in any other case and has already undergone total sentence of 01 year, 09 months and 26 days, out of rigorous imprisonment of 04 years, in the instant case. Since there is no minimum punishment prescribed under Sections 308 & 323 of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to appellant No.1 is reduced to the period already undergone by him.

6. 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 the relevant factors, proper sentence should be awarded bearing



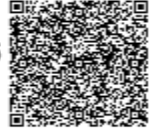
in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

7. Further, 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 18.03.2002 and appellant No.1 has been suffering the agony of trial for the last more than 23 years. Since his conviction, appellant No.1 has grown into a law-abiding citizen and desires to live a peaceful life.

9. Consequently, the present appeal is disposed of and the judgment of conviction dated 20.07.2004 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous

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imprisonment for 04 years and to pay a total fine of Rs.1,500/- along with default mechanism awarded to appellant No.1 is ordered to be reduced to the period of sentence already undergone by him.

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

21.04.2025
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**[HARPREET SINGH BRAR]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No