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

**CRR-1506-2004 (O&M)
Date of decision: 04.04.2025**

Rakesh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Present revision petition has been preferred against the judgment dated 07.07.2004 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide which, while maintaining the conviction under Section 467 of the Indian Penal Code, 1860 (for short 'IPC'), the appellant was acquitted of the charge under Sections 420 & 471 of IPC and sentence of rigorous imprisonment of two years awarded by learned trial Court, vide order of sentence dated 20.05.2003, was reduced to one year R.I. as well as for setting aside the judgment of conviction and the order of sentence dated 20.05.2003 passed by learned Chief Judicial Magistrate, Jagadhri, in FIR



No.166 dated 26.05.1991 under Sections 420, 467, 471, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Jagadhri.

2. The petitioner was convicted by learned trial Court, vide judgment of conviction dated 20.05.2003, under Sections 420, 467, 471, 120-B of IPC for committing fraud and having failed to perform his part of the agreement and vide order of sentence of even date i.e. 20.05.2003, he was ordered to undergo rigorous imprisonment for a maximum period of two years and to pay a total fine of Rs.1500/- along with default mechanism. Aggrieved by the same, the petitioner preferred an appeal before learned Additional Sessions Judge, Yamuna Nagar at Jagadhri and vide impugned judgment dated 07.07.2004, the appellant was acquitted of the charge under Sections 420 & 471 of IPC and his conviction qua the offence under Section 467 of IPC was maintained, however, the sentence of rigorous imprisonment of two years awarded by learned trial Court, was slashed to one year R.I. with a fine of Rs.500/-.

3. Learned counsel for the petitioner, at the very outset, contends that he is not assailing the impugned judgments passed by learned Courts below on merits and restricts his prayer to reduce the sentence of rigorous imprisonment of one year, already slashed by learned lower appellate Court vide impugned judgment dated 07.07.2004, from two years R.I. awarded by learned trial Court, to the sentence already undergone by the petitioner, as he has already undergone the total sentence of 26 days and is not involved in any



other criminal activity.

6. *Per contra*, learned State counsel has produced the custody certificate dated 28.03.2025 of the petitioner in the Court today, which is taken on record. She opposes the prayer of the petitioner, as learned Courts below have passed well-reasoned judgments 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 the petitioner was convicted under Sections 420, 467, 471, 120-B of IPC by learned trial Court, however, he was acquitted of the charge under Sections 420 & 471 of IPC by learned lower appellate Court, while maintaining his conviction under Section 467 of IPC, for which no minimum punishment has been prescribed. As per his custody certificate dated 28.03.2025, the petitioner is not involved in any other case and has already undergone an actual sentence of 26 days, in the instant case. Since there is no minimum punishment prescribed under Section 467 of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence of two years R.I. awarded by learned trial Court, reduced by learned lower appellate Court to one year R.I., is further 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 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 realize 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 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 26.05.1991 and the petitioner has been suffering the agony of trial



for the last more than 33 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life.

9. As a result of above discussion, present revision petition is disposed of and the judgment dated 07.07.2004 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, acquitting the petitioner under Sections 420 & 471 of IPC and maintaining his conviction under Section 467 of IPC, is upheld, however, the sentence of rigorous imprisonment of two years awarded by learned trial Court, vide order of sentence dated 20.05.2003, reduced by learned lower appellate Court, to one year R.I. and to pay a fine of Rs.500/-, is further reduced to the period of sentence already undergone by him.

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

04.04.2025
vishnu

**[HARPREET SINGH BRAR]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No