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253 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRR-2754-2022 (O&M)  
Date of Decision: 27.03.2025

SURINDER RAI

...PETITIONER

Versus

RAMESH RAHEJA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pankaj Kumar, Advocate for  
Mr. Siddharth Pandit, Advocate for the petitioner.

Mr. Vaibhav Gupta, Advocate for the respondent.

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**Harpreet Singh Brar, J. (Oral)**

1. The present revision petition is preferred against the judgment dated 04.10.2022 passed by learned Additional Sessions Judge, Chandigarh vide which judgment of conviction and order on quantum of sentence dated 24.03.2017 passed by learned Judicial Magistrate Ist Class, Chandigarh have been upheld, whereby, petitioner has been convicted and sentenced as under:

Offence under Section	Sentence	Compensation
138 of Negotiable Instruments Act	Rigorous imprisonment for one year	Rs. 3,00,000/- to be paid to the complainant

2. Learned counsel for the petitioner submits that the undertaking has been given by the earlier counsel without instructions. The petitioner has already paid the entire cheque amount and suffered the incarceration. The petitioner is not in a position to pay any further amount and he is not the owner of any immovable property. Further, he is dependent upon his son, who is also not the owner of any immovable property. As such, learned counsel submits that he is not assailing the impugned judgment of conviction dated 04.10.2022 passed by learned Additional Sessions Judge, Chandigarh on merits and restricts his prayer

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to modification of the order on quantum of sentence dated 24.03.2017 to that of sentence already undergone by the petitioner as he has already undergone a period of around 26 days out of total sentence of one year imposed upon him.

3. Per contra, learned counsel for respondent opposes the prayer of the petitioner 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, he does not deserve any leniency.

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

5. 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.

6. 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

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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 trial 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 petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

8. The complaint in the present case was filed on 20.01.2014 and the petitioner has been suffering the agony of trial since the last more than 11 years. As per the custody certificate, the petitioner has undergone sentence of 26 days out of total sentence of 01 year awarded to him. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life.

9. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

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

- (i) The judgment of conviction dated 04.10.2022 passed by the learned Additional Sessions Judge, Chandigarh is upheld, however, the order of sentence dated 24.03.2017 is modified to the extent that the sentence of rigorous imprisonment for 01 year awarded to the petitioner is reduced to the period of sentence already undergone by him.



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(ii) However, the compensation shall remain intact and respondent would be at liberty to recover the same from the petitioner in accordance with law.

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

**(HARPREET SINGH BRAR)**  
**JUDGE**

**27.03.2025**

*Ajay Goswami*

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*