



CRR-47-2014

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

CRR-47-2014
Decided on:02.05.2025

Vishal Kumar @ Billa

.... Petitioner

versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Abha Kashyap, Advocate for
Mr. Arvind Kashyap, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Harpreet Singh Brar, J. (Oral)

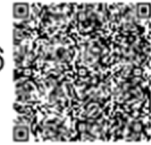
1. The prayer in the present petition is to set aside the judgment dated 02.12.2013 passed by learned Addl. Sessions Judge, Fatehgarh Sahib vide which the judgment of conviction and order of sentence dated 23.02.2012 passed by learned Judicial Magistrate 1st Class, Amloh in case stemming from FIR No.37 dated 21.04.2010 registered under Sections 279 and 304-A IPC at Police Station Amloh have been upheld.

2. The petitioner was sentenced as under:

Offence under Section(s)	Sentence
279 IPC	RI for six months
304-A IPC	RI for one year and a fine of Rs.2,000/-, in default of payment of fine to further undergo RI for one month

It was ordered that both the sentenced shall run concurrently.

3. Learned counsel for the petitioner contends that she is not assailing the impugned judgment of conviction dated 02.12.2013 on merits and restricts her prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. Learned counsel



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further submits that the petitioner has undergone actual period of more than 03 months and 19 days, out of total sentence of one year, awarded by learned trial Court and is not involved in any other case

4. *Per contra*, learned State counsel opposes the prayer of the petitioner as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency.

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

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



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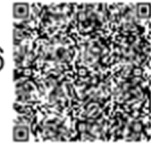
exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. It transpires that the petitioner was convicted under Sections 279/304-A IPC for which no minimum punishment has been prescribed. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather she has restricted her prayer only qua modification of quantum of sentence.

9. The FIR in the present case was lodged on 21.04.2010 and the petitioner has been suffering the agony of trial for the last more than 15 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his custody certificates, the petitioner has undergone a period of 03 months and 19 days out of total sentence of one year awarded by learned trial Court and he is not involved in any other case.

10. Since there is no minimum punishment prescribed under Sections 279/304-A IPC, 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.

11. Consequently, the present petition is disposed of and the judgment dated 02.12.2013 passed by the learned Additional Sessions Judge, Fatehgarh Sahib upholding the judgment of conviction dated 23.02.2012 passed by learned Judicial Magistrate Ist Class, Amloh is upheld, however, the order of sentence dated 23.02.2012 is modified to the extent



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that the sentence of rigorous imprisonment for one year and fine along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

12. Pending miscellaneous applications, if any, shall also stand disposed of.

02.05.2025

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Whether speaking/non-speaking?

Whether reportable?

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No